

## **Simermeyer, Sequoyah**

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**From:** Kunesh, Patrice  
**Sent:** Monday, December 12, 2011 6:07 PM  
**To:** Berrigan, Michael  
**Cc:** Simermeyer, Sequoyah  
**Subject:** FW: Final Admin Error Standard Memo  
**Attachments:** 12-12-1915.pdf; 1851 treaty.pdf; 1962 order.pdf; 6-29-1921.pdf; Tejon Indian Tribe 12 12 2011.pdf; Tejon Reaffirmation 12.11.docx; genealogy.pdf; 10-28-1916.pdf; 11-7-1916.pdf; Final Admin Error Standard Memo.docx

FOIA5A

FOIA5C

Mike – please review the attached memo [REDACTED]  
[REDACTED]

Thank you, Patrice

**From:** Simermeyer, Sequoyah  
**Sent:** Monday, December 12, 2011 4:12 PM  
**To:** Killsback, Dion K; Appel, Elizabeth; Tsosie, Paul; Kunesh, Patrice; Echohawk, Larry  
**Subject:** FW: Final Admin Error Standard Memo

Liz and Dion:

FOIA5A

FOIA5C

Attached is a draft response to the Tejon Indian Tribe. The Tribe requested either to be recognized under the IRA or for its federal status to be reaffirmed because of an administrative error by the DOI. Also attached is a memo that describes [REDACTED]  
[REDACTED]

Can you both take a look and give feedback on the draft response letter ("Tejon Reaffirmation 12.11") [REDACTED]  
[REDACTED]

[REDACTED] I have the information that the Tribe submitted and have attached to this e-mail some of the federal documents that are referred to in [REDACTED]  
[REDACTED]

Any feedback would be greatly appreciated even if we can just have a conversation in the next day, so thanks in advance for your time. Thanks for reading through the typos that still may be in the letter.

Paul, after Liz and Dion give their input, would you like to send a version of the response letter to the OFA, PAC Region and the BIA Indian Services? Before any draft gets distributed internally, could you talk directly with Patrice about how SOL will review? Within SOL, I that Maria and Mike may need to be added for the next version but of course defer to Patrice and Paul. Until then, I am keeping the distribution list just to the people on this e-mail. Thank you everyone for maintaining the A-C privilege.

Thanks.

Sequoyah

**From:** Kunesh, Patrice  
**Sent:** Wednesday, November 16, 2011 7:41 PM  
**To:** Echohawk, Larry  
**Cc:** Tsosie, Paul; Simermeyer, Sequoyah; Kunesh, Patrice  
**Subject:** Final Admin Error Standard Memo

ATTORNEY – CLIENT COMMUNICATION AND DELIBERATIVE PROCESS PRIVILEGE

DO NOT RELEASE

FOIA5A

FOIA5B

FOIA5C

I have 3 things to report:

1.

2.

3.

Please let me know if you have any questions.  
Patrice



# INDEX OF FEDERAL DOCUMENTS -- OVER A CENTURY OF FEDERAL RECOGNITION OF AND SUPERVISION OVER THE TEJON INDIAN TRIBE

EXPRESS EXTENSION OF FEDERAL SUPERVISION OVER TEJON TRIBE			
Date	Document	Location	Relevant Section of Document
June 10, 1851	June 10, 1851 Unratified Treaty Between United States and the "Chiefs, Captains and Head Men of the . . . 'Texon,' &c., Tribes of Indians"	Exhibit 1	"A treaty of peace and friendship made and entered into a Camp Persifer F. Smith at the Texon pass, in the State of California, on the tenth day of June, eighteen hundred and fifty-one, between . . . the United States . . . and the chiefs, captains and head men of the following tribes . . . Texon [Kitanemuk][.] . . . [Signed by] Texon: Vincente, chief, Francisco, chief[.]"
Sept. 30, 1853	Superintendent Beal to Commissioner Maypenny	Exhibit 2	"I immediately collected together the head men and chiefs and deputations from every quarter of the mountains and plains lying between the 'Four Rivers' and that point, a distance of about one hundred and fifteen miles in length, by about the same breadth.  With these Indians I held council for two entire days, explaining to them the intentions of the government in relation to their future support. After long deliberation and much talk among their head men and chiefs, they agreed to accept the terms I had offered them[.]"
Aug. 28, 1854	Thomas Henley, Superintendent of Indian Affairs in California to George W. Maypenny	Exhibit 3	"Since entering upon my official duties on the 26 <sup>th</sup> ultimo . . . I have visited the Indian reservation at Tejon, (the only reservation at which, as yet, any Indians have been collected) and have taken possession and supervision of the public property, schedules of which will accompany my report at the expiration of the quarter.  ... I fix the number, however, according to the best information I could obtain, at seven hundred, who acknowledge the authority of seventeen chiefs.  ... The chiefs, at their own request, have been permitted to exercise police authority over their respective tribes, and are held responsible for the proper quota of labor from each tribe. The labor is divided among the chiefs, according to the number in each tribe[.]"
Aug. 30, 1862	John Wentworth, Superintendent to Commissioner of Indian Affairs	Exhibit 4	"The Indians properly belonging at present to the Tejon reservation may be numbered at about 1,370, among whom are the following thrifty tribes or bands[.] . . . The Sierra or Caruana Indians [Kitanemuk], under their chief, Vincente, number 36 men, 40 women, and 20 children; they own 22 cows and 33 horses, and cultivate about 30 acres of land as their own farm."

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WITHDRAWAL OF LAND FROM PUBLIC DOMAIN AS RESERVATION FOR TEJON TRIBE			
Date	Document	Location	Relevant Section of Document
May 14, 1914	Department of the Interior temporary withdrawal of lands for Tejon "band of Indians, wards of the Government."	Exhibit 6	"[R]ecommendation is made that there be temporarily withheld from all forms of settlement and entry all vacant public lands . . . until the report that 100 Indians domiciled for years on the adjoining E1 Tejon Ranch, are about to be ejected from the ranch, may be investigated and the lands actually needed to protect the Indians ascertained."
Nov. 7, 1916 and Nov. 9, 1916	Chief Clerk, C.F. Hauke to the Honorable Secretary of the Interior	Exhibit 21	"The Office has the honor to recommend that . . . 880 acres, be temporarily reserved and set aside for the use of the E1 Tejon band of Indians, Kern County, California. . . . Approved and referred to the Commissioner of the General Land Office for action in accordance with the foregoing recommendation."
Aug. 2, 1962	Public Land Order 2738, 27 Fed. Reg. 7636	Exhibit 44	"The departmental order of November 9, 1916 temporarily reserving and setting aside the following described lands for use of the E1 Tejon Band of Indians, is hereby revoked."

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Federal Protection of Tribal Welfare and Efforts to Purchase Land For Tribe			
Date	Document	Location	Relevant Section of Document
May 21, 1914	Assistant Commissioner E.B. Meritt to Special Agent Asbury	Exhibit 7	"The Office desires that you proceed to the [Tejon tribal village] at the earliest practicable date for the purpose of making a full and complete investigation concerning the conditions surrounding the Indians referred to and to submit to this Office a report in detail so that appropriate action may be taken for the protection of these Indians."
Aug. 18, 1914	Report from Special Indian Agent Asbury to Commissioner of Indian Affairs	Exhibit 8	<p>"I have access to old reports of the Commissioner of Indian Affairs where I find reference to these Indians from the time the jurisdiction of the United States was extended over them.</p> <p>These Indians had lived at the same place for many years, one of the old men say from the time the sun came up the first time.</p> <p>They have continued to live on the ranch up to the present time but the number has diminished by death and removal to other places until at present there are about sixty Indians making their home there.</p> <p>I asked [Tejon Ranch] if they would sell us a small tract of land where the Indians live or give us some sort of Easement that would secure the use of that land to the Indians at least for a long term of years.</p> <p>Unless some ground can be found to support the claim of the Indians to rights to the land occupied it seems that it will be necessary for us to buy the land, if it can be bought, or to try to buy land of some one else in that same locality."</p> <p>"Will you sell to the Government, for the use of that band or Indians, a small tract of land covering their present homes with a water right for their present gardens?"</p>
August 19, 1914	Special Indian Agent Asbury to Mr. Harry Chandler, Los Angeles Times	Exhibit 9	
Jan. 25, 1915	Special Indian Agent Asbury to Mr. Harry Chandler	Exhibit 11	<p>"I recommend the Tejon situation to be given first consideration and we are anxious to know whether there is a chance of purchasing some land there, in order that steps may be taken to use this money.</p> <p>You understand, that we are anxious to secure a permanent home for those Indians, if possible."</p>
Dec. 12, 1915	December 12, 1915 Report and Census from Special Indian Agent John Terrell to Commissioner of Indian Affairs	Exhibit 14	<p>"I am not advise[d] as to nature and extent of these reports; however, regret to say that my investigation made among these people, having visited their Rancheria and carefully gone through and inspected each cabin home, causes me to conclude the citizens of Bakersfield have been fully justified in writing the Office in the interests of the Indians.</p> <p>This manager acting under instructions from the ranch owners by repeated and persistent efforts has . . . caused every Indian, except the Chief, . . . to sign some character of agreement or lease contract, which I suppose is intended more as recognition of the rights of the owners and an estoppel to the Indian setting up any claim to the land, than any thing else. The older Indians of this band have not entirely abandoned the conviction that they have a legal right to the land on which their old village was situated.</p> <p>Census of the Indians of El Tejon Band in Kern Co. Calif."</p>

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Federal Protection of Tribal Welfare and Efforts to Purchase Land For Tribe (cont'd)			
Date	Document	Location	Relevant Section of Document
Jan. 7, 1916	Assistant Commissioner E.B. Meritt to Superintendent Tule River School Frank A. Yrre	Exhibit 16	"The Office desires that you do all you can to protect the morality of these Indian girls and women, but it would not be advisable to start proceedings that could not be sustained, with the very probable result of bringing prosecution or eviction upon the Indians. Please submit a report upon this subject after you have had time to look into the matter."
March 6, 1916	Special Indian Agent John Terrell to Commissioner of Indian Affairs	Exhibit 17	"I spent the better parts of four days in company with Mr. T. C. Castro of Bakersfield, and after reaching these Indians took with us three of their leading men as home, including their chief, <u>Juan Lozada</u> , in our efforts to find them a suitable location that could be purchased, but without success.  The most serious trouble is these Indians were born, raised and have never lived elsewhere than at and very near their present location, and Indian-like permit sentiment to almost entirely overshadow judgment." "In the hope that I might find suitable location for their removal either by purchase or allotments on Government lands ... <u>persuaded</u> <u>Juan Lozada</u> , Chief of this band to accompany me on my recent trip through portions of Kern, Inyo and Tulare counties, having gone as far to the northeast as Bishop, California.  In conclusion beg to say I have almost given up that I shall likely succeed in securing suitable and available lands by purchase or allotments for the removal of these Indians, at least very far distant from their present location.  [A]ll the older and middle aged Indians of this band, in fact all but a few of the younger, children, are full bloods, and except Chief <u>Lozada</u> , are without any education and but few have even a slight knowledge of the English language; that all have lived on present locations, or very close, in sight, all their lives, knowing no other locality, but little of other people or environments; and, Indian-like ... are more ignorantly and persistently attached than ordinarily to the Tejon Canyon.] It is but natural that in and around this spot of a long life-time association clusters many sacred memories of, to them, eventful past. Their dead as far back as they know are sleeping their last sleep within their every day sight.  It will unquestionably prove a most difficult task to remove these Indians very far from present location, evidently it would require force to remove them.  My suggestion is, if possible to accomplish, to have set aside for use of these Indians all Government lands remaining untaken within these three Ranges and Township at the earliest possible moment."
Sept. 21, 1916	Special Commissioner Indian Service John J. Terrell to Commissioner of Indian Affairs	Exhibit 19	...

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United States' Pursues Land Claim Litigation on Tribe's Behalf			
Date	Document	Location	Relevant Section of Document
October, 1916	Department of the Interior Litigation Request to Department of Justice to protect the El Tejon Indians	Exhibit 20	<p>"I have the honor to transmit herewith a communication with enclosures received from the Office of Indian Affairs requesting the institution of a separate suit in the United States District Court for the Southern District of California to protect the interests of the El Tejon Indians in their homes located in Kern County, California.</p> <p>... The Office has the honor to submit the following statement of facts relative to the El Tejon Indians, with a view to having the Department of Justice take whatever action may be deemed advisable for the protection of their interests. ... These Indians, now 79 in number, live near Bakersfield in Kern County, California, on lands which, if surveyed, would probably be described as Sec. 10, T. 11N., H. 17 W. ... They maintain tribal relations and the record evidences a continued occupancy of these lands for at least 100 years.</p> <p>... The Office has prepared the enclosed draft of a letter to the Attorney General requesting that steps be taken by the proper United States Attorney to protect the interests of those Indians to whatever rights they may have to their village home. It is suggested that even if the home of these Indians might not be procured for them in fee by this method, the Syndicate might at least be placed in a position where it would be willing to compromise the matter by a sale to the United States at a reasonable price for the lands occupied by the Indians."</p> <p>"On Nov. 19 Mr. H.K. Palmer, Assistant Engineer, and one roddman, were detailed by this office to proceed to the Tejon Indian lands and make such surveys and investigations as were necessary to secure the required data. ... The Tejon band of Indians have been living in the Tehachapi Mountains on the southern edge of the San Joaquin Valley since before the coming of the Spaniards to California."</p>
Jan. 14, 1918	Report and map of Tejon lands prepared by the United States Indian Irrigation Service	Exhibit 22.	
May 28, 1920	Special Assistant to the Attorney General George Fraser to Mr. Harry Chandler, Tejon Ranch Syndicate	Exhibit 23	<p>"The Department of Justice has been requested by the Department of the Interior to bring suit in the Federal Court to protect these wards of the Government in their rights. We are here to commence such a suit and will, of course, carry it to the Supreme Court of the United States unless successful below. In it we will assert the Indian occupancy title not only to the small tract still under Indian cultivation, but to a much greater territory, once undoubtedly used by the Indians, subject to their right of possession and now needed by the tribe as at present constituted, but from which they have been forced.</p> <p>... This ... is a clear case. It has been carefully and patiently investigated. Repressive force has been exerted in the name of a wealthy and powerful syndicate, against ignorant and helpless people whom it is especially the legal and moral duty of the United States to protect.</p> <p>... There is but one point on which there can be no give and take, namely, that the Government must obtain for the Indians permanent and undisturbed possession of an adequate tract under secure legal title"</p> <p>"Preliminary to carrying out our plan to see whether a satisfactory settlement could be made by agreement with the owners of the Mexican grant upon which the Tejon Indians are settled, before brings suit, we thought it desirable that Mr. Fraser and myself, be familiar with the situation on the ground. ... After going over the Indian lands and talking to the Chief, we endeavored to open negotiations with the owners of the ranch through the resident manager[.] ... We also saw Mr. Yrme, the Superintendent of the Tule River Indian Reservation, under whose jurisdiction these Tejon Indians come."</p>
April 24, 1920	Special Assistant to the Attorney General to the Attorney General	Exhibit 54	

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United States' Pursues Land Claim Litigation on Tribe's Behalf (cont'd)			
Date	Document	Location	Relevant Section of Document
Dec. 20, 1920	Bill of Complaint	Exhibit 71	"This suit is brought under the authority and by the direction of the Attorney General of the United States at the request of the Secretary of the Interior . . . in furtherance of its Indian policy and also in its capacity . . . as guardian for sundry Indians known as the Tejon Band or Tribe of Indians now and from time immemorial residing on certain premises hereinafter described, in what is now Kern County, California; that said Indians are and from time immemorial have been tribal Indians, and at all times since July 7, 1846, have been and now are wards of the United States and at all time herein mentioned were and still are incompetent to manage their own affairs[.]"
June 29, 1921	Memorandum from George Fraser, Special Assistant to the Attorney General, to the Attorney General	Exhibit 25	<p>[T]hat said Tejon Indians were and are the ancestors and predecessors of the existing band or tribe of that name; that up to the years 1843 and 1845, and for a long time thereafter, as hereinafter set forth, said Tejon Indians resided upon and exclusively possessed, used, and cultivated said premises above described, and as well said larger tract, raising crops and pasturing cattle, horses, and other stock thereon.</p> <p>The suit is brought by authority of the Attorney General of the United States at the request of the Secretary of the Interior in furtherance of the Indian policy of the Government, which is here acting as guardian of a band or tribe of Mission Indians, wards of the United States, and incompetent to manage their own affairs, known as Tejon Indians, and from time immemorial residing on a described tract in Kern County, California. The above mentioned officials in bringing the suit are acting not only in the general line of their duty and in defense of the general Indian title of occupancy and use but also under the specific requirements of the Act of January 12, 1891, 26 Stat. 712."</p> <p>"From time immemorial the Tejon Indians have occupied a tract called the Tejon which includes the extreme southern end of the San Joaquin Valley, Kern County, California, and extends into the mountains adjoining . . . In 1851, a treaty was negotiated with this tribe by commissioners delegated by Congress for the purpose, whereby, in consideration of the confirmation of certain lands to them for their exclusive occupancy and the performance of other conditions by the United States, they agreed to surrender the remainder of their territory; but the treaty was never ratified by the Senate and no treaty or agreement of any sort was ever consummated with these Indians.</p> <p>We told him that facts and law had been considered, that the Interior Department had laid the matter before the Department of Justice stating that the condition of the Indians was unsatisfactory and making that suit be brought if it were thought maintainable that the latter Department, after careful consideration, had now decided, and that indeed it was not only the general but the specific duty of the Attorney General under the Act of 1891 to protect these Indians... Finally, the case is in every way a meritorious one. The condition of these Indians is a reproach to our civilization. They are opposed to an aggregation of the wealthiest and most influential capitalists in Southern California and have no hope or recourse except through the intervention of the United States... The tract which it is the purpose of the suit to secure for the band is in a remote corner of the Tejon Ranch where the presence of the Indians can in no way be an annoyance or detriment to their neighbors and as above pointed out, is in every way suitable and desirable for their maintenance."</p> <p>"In the capacity of guardian of a band of Mission Indians, incompetent to manage their own affairs, known as the Tejon Indians, residing on a described tract of land in Kern County, Cal., the United States brought a suit against the appellees, seeking to have the original title of occupancy and possession of the land by the Indians confirmed and established as a species of easement founded on the grant of title to the lands from the Mexican government, and to obtain compensation for alleged acts of wrong and oppression committed by the appellees, and to enjoin further molestation of the Indians. The particular subject of the suit is 5,364 acres within the boundaries of El Tejon rancho[.]"</p> <p>"This is a suit by the United States, as guardian of certain Mission Indians, to quiet in them a 'perpetual right' to occupy, use, and enjoy a part of a . . . land grant in Southern California[.]"</p>
1923	<i>United States v. Title Insurance &amp; Trust Co.</i> , 288 F. 821, 823 (9th Cir. 1923)	Tab H	
1924	<i>United States of America v. Title Insurance &amp; Trust Company</i> , 265 U.S. 472 (1924)	Tab C	

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United States' Supervision of Tejon Tribe After Supreme Court Litigation and Efforts to Secure Land			
Date	Document	Location	Relevant Section of Document
June 14, 1924	Telegram from Assistant Commissioner E.B. Meritt to F.G. Collett	Exhibit 26	"Your telegram thirteenth instant. Decision of Lower Court in EL Tejon case affirmed. Immediate steps will be taken for the relief of Indians to extent of funds available."
June 19, 1924	Assistant Commissioner Meritt to Superintendent L.A. Dorrington	Exhibit 27	"You are requested to make a careful investigation with a view to determining how large an appropriation should be requested at the next session of Congress to adequately provide land for the Tejon Indians, in addition to the \$7,900 you have already been authorized to use after July 1, 1924. It is desired that you report this information to the Office by telegraph at the earliest practicable date."
September 12, 1924	Secretary of the Interior Hubert Work to the Attorney General	Exhibit 28	"The Indian Bureau of this Department is in communication with the Superintendent of the Sacramento Agency, who has jurisdiction over the Tejon Band of Indians and he has been instructed to arrange for a conference with the Indians and the ranch owners with a view to ascertaining just what agreement might be made for the Indians to continue to occupy the land and receive employment on the ranch. ... The Superintendent's report . . . is expected within a short time whereupon the whole matter will receive careful consideration and special attention will be given to the proposition . . . that a portion of the land might be obtained for the Indians by condemnation proceedings if the ranch owners will not consent to the sale."
October 18, 1924	Superintendent L.A. Dorrington to Commissioner of Indian Affairs	Exhibit 29	"This will acknowledge receipt of your letter . . . having reference to the Tejon Band of Indians residing on the Tejon Ranch in Kern County, California. In reply kindly permit me to . . . advise that it had not been deemed expedient nor in the best interest of the Indians to hurry or attempt to force a conference such as contemplated, as the people owning the ranch . . . are very much occupied with other affairs . . . and any conference, or meetings held with the Indians at the ranch should be at their convenience and pleasure. My knowledge of conditions has prompted me to take this view of the situation and unless otherwise directed will act accordingly in the premises. ... For you information at this time kindly be further respectfully advised that the said Indians are now on the same land occupied by them for many years, and without any objection. That their school is being continued and conducted in the same satisfactory manner as since first established.
November 8, 1924	Acting Secretary of the Interior E.C. Finney to Attorney General	Exhibit 30	.. About 75 Indians belonging to Tejon Band (see Telegram of 11/10/1924 82438-24 with 32382-24-313 Sacramento) "Reference is again made to the correspondence relating to the Tejon Band of Indians in California who lost their suit in the Supreme Court to have title confirmed in them to the land they have occupied for many years. A report has recently been received from the Superintendent of the Sacramento Indian Agency who has jurisdiction over these Indians, wherein he discusses their conditions."
November 10, 1924	Telegraph from Superintendent Dorrington to Commissioner of Indian Affairs	Exhibit 29	"Your telegram eighth. Approximately seventy-five Indians belong to Tejon Band of which twenty attend public school on Tejon Ranch."



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United States' Supervision of Tejon Tribe After Supreme Court Litigation and Efforts to Secure Land (cont'd)			
Date	Document	Location	Relevant Section of Document
April 3, 1925	Assistant Commissioner E.B. Meritt to Superintendent Dorrington and May 8, 1925 response	Exhibit 31	"Further effort to satisfactorily adjust matters pertaining to the Tejon band will be continued. ... You are requested to forward your report on the Tejon Indian situation at the earliest practicable date."
June 23, 1927	Commissioner of Indian Affairs from Superintendent L.A. Dorrington	Attachment to Nov. 8, 2006 Letter to Interior	"Tejon which at one time was considered a Rancharia has passed through legal procedure and title has been declared to be in the Tejon Ranch. Effort has been made to purchase land the Indians occupied, but the owners of the Rancho refused to sell but have expressed their willingness that the Indians should remain there and occupy the land as formerly without any objection so long as they do not make legal claim for same. A rental of \$1.00 per year is charged them for occupancy of the land. It is useless to consider purchasing land for them elsewhere as they would positively refuse to move from their present habitation."
June 26, 1930	Secretary of the Interior Ray Wilbur to Vice President Curtis	Exhibit 34	"In regard to purchasing some of these lands for the El Tejon Indians it may be said that by a decision of the United States Supreme Court June 9, 1924, in the case of United States of America, Appellant v. Title Insurance and Trust Company, et al. (265 U.S. 472), the court held that title to the land occupied by these Indians was in the Title Insurance and Trust Company, et al., and that the Tejon Indians had no legal or valid title thereto or occupancy thereof.  However, the owners have been leasing to the Tejon Band the particular tracts, it is assumed, occupied by the Indians, for a nominal consideration of \$1.00 per year. This procedure is, of course, merely for the purpose of having the Indians recognize the lessors as owners of the property.  Correspondence in our files indicates that the Indians of the Tejon Rancho are free to do as they please without let or hindrance in regard to the privately owned lands which they occupy. As the situation in this case is viewed these Indians are generally industrious, self-supporting and contented under present conditions, and have not made any request or demand that lands be purchased for them or that conditions be changed, consequently, I question the wisdom of disturbing them in their present occupancy of the privately owned lands or in any way disrupting their evident orderly and peaceful mode of living."
March 28, 1938	Assistant Commissioner William Zimmerman to George W. Hurley, Esq.	Exhibit 36	"As the owners of the El Tejon Rancharia permit the Indians to reside peacefully on the lands occupied by them for a rental of \$1.00 per year, it is not believed that the existing relationship should be disturbed at this time; nor is it deemed advisable to ask Congress for legislation such as you suggest, especially as it would necessitate the appropriation of a large sum of money to pay for the lands involved."

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United States' Supervision of Tejon Tribe After Supreme Court Litigation and Efforts to Secure Land (cont'd)			
Date	Document	Location	Relevant Section of Document
January 18, 1938	List of Agencies under the jurisdiction of the Office of Indian Affairs by Reservation and County	Exhibit 37	(Listing Rancheria in Kern County)
April 1, 1941	List of Agencies under the jurisdiction of the Office of Indian Affairs by reservation or area, and county	Exhibit 38	(Listing Rancheria in Kern County)
August 13, 1952	Area Director Leonard Hill to Commissioner, Bureau of Indian Affairs	Exhibit 39	"Reference is made to our telephone conversation of a few days ago relating to the welfare of the Indian community, located on the El Tejon Ranch in Kern County, which was damaged by the recent earthquake in that area."
	Undated memo to the Commissioner regarding the earthquake at Tejon	Exhibit 40	"We do have a small frame school building located at the El Tejon Indian Community, but which is located on non-trust land. Several Indian families live in this immediate vicinity. None of which are on trust property."
June 3, 1953	Area Director Leonard M. Hill to Paul E. Herzog	Exhibit 42	"Reference is made to your letter of May 14, 1953, regarding the Indians who live on the El Tejon Ranch in Kern County. The Indian Bureau has been concerned over the welfare of these Indians for many years. . . . About 1915 a suit was brought in the Federal Court to establish the right of those Indians to the land which they occupied. However, the decision of the court was that the Indians did not have any right of occupancy on the ranch[.] Therefore, the Indians are living on the El Tejon Ranch as tenants of the owners of that property. Since the land occupied by these Indians is privately owned, the government has no jurisdiction over the property and government funds appropriated to the Indian Service cannot be used for improving the facilities of these Indians."
Post 1957	BIA List of Reservations, Tribes and Dates of Acquisition and Disposition	Attachment to Nov. 8, 2006 Letter to Interior	"El Tejon – not a reservation – lands privately owned by Tejon Ranch. See letter of 6-23-1927"  Undated list contains statutes passed in 1958 (see Strawberry Valley Ranch)

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Department of the Interior's Funding of School at Tejon Ranch and Education of Tejon members			
Date	Document	Location	Relevant Section of Document
May 6, 1915	Special Indian Agent Asbury to Mr. Harry Chandler, Los Angeles Times	Exhibit 47	"I am of the opinion that our Office would enter into some sort of agreement with the County, whereby we would bear a part of the expense of maintaining the school there, if satisfactory arrangements can be made with the owners of the ranch. We understand, that we could not go there and build a building and maintain a school of our own, unless it was entirely agreeable with you and believe, that under the law, the Government could not build a building on land to which they did not have a title. If some arrangements could be made, whereby the County would maintain the district, provide the building, I feel sure that we could get the approval of a contract, whereby the Government would bear a large part of the expense of maintaining the school."
December 18, 1916	Special Agent Asbury to the Commissioner of Indian Affairs	Exhibit 48	"I am including herewith an application for contract with the Tejon district in Kern County, California, for twenty children. I am disposed to recommend a contract in this case with a view to giving it a trial. This particular band of Indians has been the subject of very extensive correspondence. The Office will recall that they have been threatened, so it is alleged, with ejection from their present home on the Tejon ranch, which is owned by a syndicate of Los Angeles capitalists. This band of Indians was a subject of investigation by me about August 1914 and I believe that Mr. Terrell has made some reports since and in fact, I think I have written a few letters since that time myself."
April 30, 1917	Acting Assistant Commissioner C.F. Hauke to Secretary of the Interior	Exhibit 51	"To admit to the public school in the district named during the fiscal year ending June 30, 1917 Twenty (20) Indian children between the ages of five and eighteen years, whose parents are members of Tejon tribe of Indians under the jurisdiction of the U.S. Special Indian Agent Reno, Nevada."
	Lease between Joe J. Taylor, Superintendent & Physician of the Tule River and the Indian School District	Exhibit 55	"This agreement, made and entered into this 1 <sup>st</sup> day of May A.D. 1922, by and between Joe J. Taylor, Superintendent & Physician of the Tule River Indian School and Agency, Porterville, California, on behalf of the United States, party of the first part, and Trustees of Indian School District – Pedro Villareal, F. Leon & J.R. Lozada party of the second part:  Witnesseth, that said party of the first part, for and in consideration of instruction given unto Indian children, wards of the Federal Government, by Public School District El Tejon, Kern County, California, and other good and valuable consideration, does hereby let and lease unto party of the second part and to their successors in office, for us and occupation for the purpose of conducting therein a public school to which Indian children shall have access upon an entire equality with white children, for the period of three years, beginning on May first, 1922, the following described premises:"
December 27, 1920	Justification	Exhibit 57	"In the foothills of the Sierra Mountains in the State of California there is a settlement of Indians known as the Tejon Indian Settlement. The nearest public school is 9 miles distant. There are some 25 children of school age without educational privileges and the transportation of these Indians to an established school is impracticable. The Indians are wards of the Government and very poor. To meet this situation a school district has been established, which under the provisions of the California laws will draw enough state and county money practically to support the school. However, the Indians have no property which could be taxed to provide a schoolhouse, and arrangement is being made whereby the school district will agree to removal of any improvements which the United States may place on a tract of land leased for school purposes and it is planned to place a portable schoolhouse on the tract leased for the purpose which will provide school facilities for this group of Indians."
November 12, 1924	Assistant Commissioner E.B. Meritt to L.A. Dorrington.	Exhibit 58	"The Superintendent advises that advertising for portable schoolhouses has been made and the bid which it is proposed to accept is the lowest, most practicable and desirable." "Name Specifically tribe or tribes from which pupils are to be obtained under contract: Tejon Indian Tribe. Degree of Indian blood: over 1/2 Indian."

# INDEX OF FEDERAL DOCUMENTS -- OVER A CENTURY OF FEDERAL RECOGNITION OF AND SUPERVISION OVER THE TEJON INDIAN TRIB

Department of the Interior's Funding of School at Tejon Ranch and Education of Tejon members			
Date	Document	Location	Relevant Section of Document
December 28, 1923	Superintendent Dorrington to the Commissioner of Indian Affairs	Exhibit 59	"In the case of Tejon Indian District, Kern County, the estimated cost per pupil per day is 70¢, instead of \$1.31. In regard to the suggested reduction in rate, please be advised that after a most careful investigation of the circumstances under which this school is maintained, and from personal knowledge of the conditions peculiar to this district, it is the opinion of this office that the rate of fifty cents is not excessive and is absolutely necessary for properly maintaining desirable educational facilities. The public school authorities were consulted in the premises and under date of November 30."
Jan. 16, 1926	Assistant Commissioner Mientt to Superintendent Dorrington	Exhibit 60	"Authority is hereby granted you to expend during the fiscal year 1926 . . . from funds now being allotted you of Indian Schools Support . . . in payment of tuition for Indian pupils of your jurisdiction in attendance at the following Public School districts . . . Tejon Indian[?]"
August 23, 1944	Superintendent D.H. Biery to Edward Montez	Exhibit 64	"Your application for entrance to Sherman Institute has been approved."
May 29, 1945	Superintendent Rockwell to Commissioner of Indian Affairs	Exhibit 62	"The El Tejon group of Indians have lived in that particular spot from time immemorial -- as the Indians say, "From the time the sun first came up." Sometime in the 1850's, a Superintendent by the name of Beale came out from the East who . . . supported the idea that the old Spanish grant, now under the name El Tejon, should be Indian land. Apparently, money was not forthcoming for the purchase, and a few years later we find that Beale acquired the ranch.  In the Twenties, the whole matter came into the courts for settlement and for clearance of title. The court ruled that the title to this land was in the El Tejon Ranch Company and not in the Indians.  This school building was built before final decision regarding the title to the ranch had been made. Our records do not indicate that any piece of land from the El Tejon Ranch was conveyed to the Government. . . . None of the surrounding land used by the Indians is Government-owned land. The Indians live on the ranch land -- a very small place -- use it, and work for the ranch; but they have no title to it.  It should, however, be borne in mind that here is a stable and small Indian population of perhaps ten or twelve families who have always lived on El Tejon Ranch and would probably continue to live there for a considerable period of time. I think it would be a better idea to have the school closed and the children transported to the Sunset School, as is now planned by Superintendent Hart. The important thing is that some way be found such that this building may be used in connection with the Sunset School."
Sept. 1947	Approval by Superintendent Rockwell of Nelle Hinto Application to Sherman Institute	Exhibit 64	"The family home is on the El Tejon Ranch, where they have always lived as well as their parents and grandparents before them. It is in a remote area with no nearby public or federal high school and is not reached by school bus service. . . . [She is] full degree Indian and have never known any other students than Indian." Mildred Van Every, Sacramento Indian Agency Social Worker.

# INDEX OF FEDERAL DOCUMENTS -- OVER A CENTURY OF FEDERAL RECOGNITION OF AND SUPERVISION OVER THE TEJON INDIAN TRIBE

Creation of List of Federally Recognized Tribes			
Date	Document	Location	Relevant Section of Document
Aug. 23, 1994	Affidavit and Testimony of Patricia Simmons, before Administrative Law Judge Torbett, in <i>Greene v. Babbitt</i> , Case No. Indian 93-1 (USDOJ Office of Hearings and Appeals).	Tab R	<p>"Q. So each area office was consulted to confirm its understanding of which groups were in a formal relationship, administered by them at the area level, is that correct?</p> <p>A. Yes, that was the purpose of submitting the list for their review.</p> <p>Q. And that would have been 19 --</p> <p>A. The same year, 66.</p> <p>Q. Late 60's?</p> <p>A. 66. 1966, after I did the initial draft and submitted it to my boss, it was ultimately circulated to the areas under a letter dated August 1966 for their review and comment.</p> <p>Q. And I take it from one of your earlier answers that the records of the review and comment are no longer in existence.</p> <p>A. I've not been able to find them."</p> <p style="text-align: center;">* * *</p> <p>Q. Does this 1969 document reflect what you were referring to earlier as later work that began to take into consideration the question of federal recognition?</p> <p>A. The December 5<sup>th</sup>, 1969 is a revision of the list following comments received from the area.</p> <p>Q. It took three years to deal with problems?</p> <p>A. Sometimes it does.</p> <p>Q. Okay.</p> <p>A. And then you will note that the subject matter was recast somewhat.</p> <p>Q. Could you elaborate on that, how you see it being redefined as a list?</p> <p>A. Well, basically it indicated the areas were concerned the initial list would convey other than what it was intended. So it was recast to strictly reflect only those Indian tribes who we had some dealings in the form of IRA constitutions, other constitutions, and those that were unorganized, but that we had some formal dealings with.</p>
1968	New BIA Sacramento Area Director		In 1968, William E. Finale was named director of the Sacramento Area Office after five years of service as deputy assistant commissioner (community affairs) in Washington, D.C. Finale came to the Bureau of Indian Affairs in 1961 as senior program officer in Washington, D.C.

**CONFIDENTIAL MEMORANDUM**

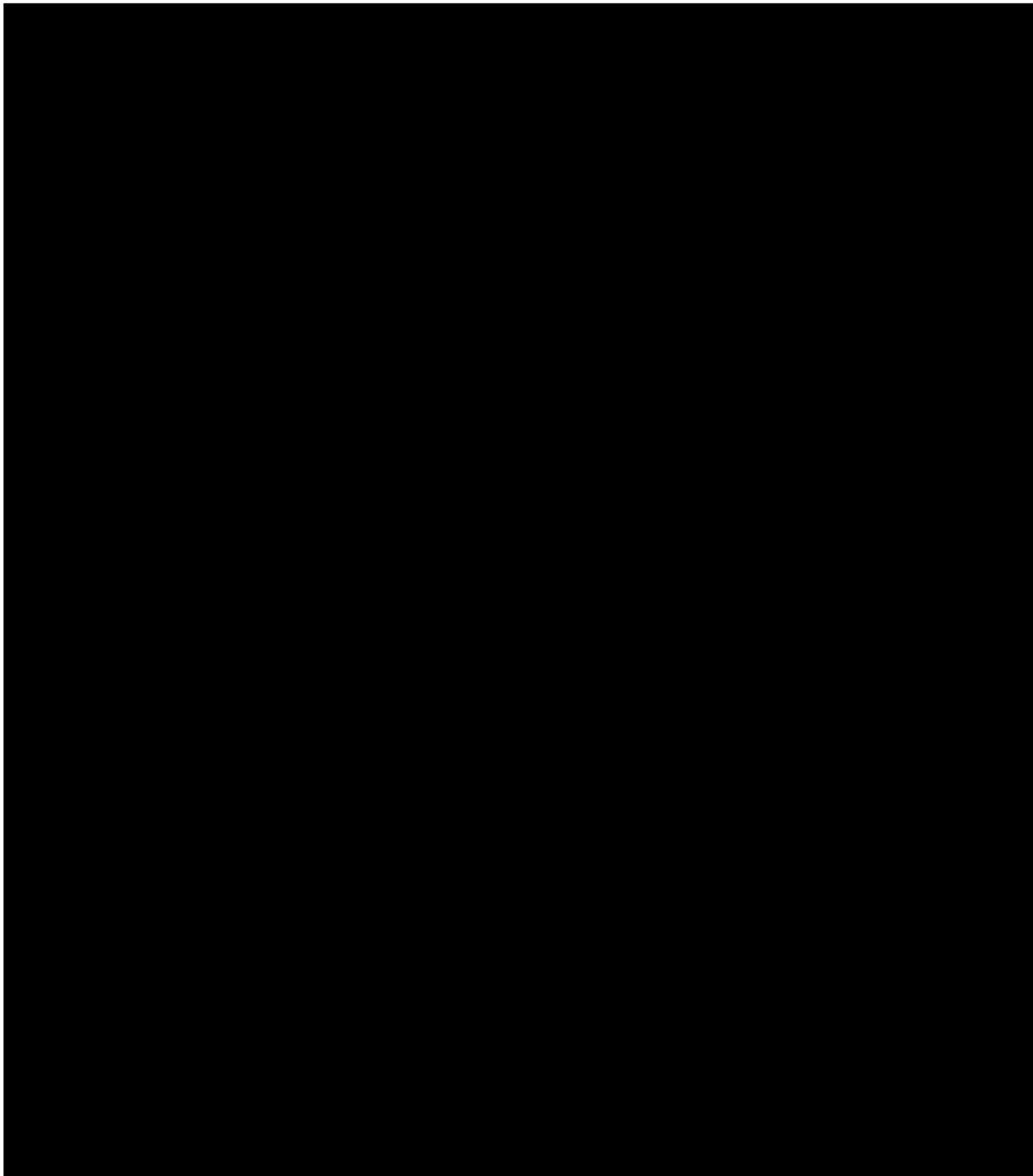
**FOIA5C**

**FOIA5A**

TO: AS-IA Staff

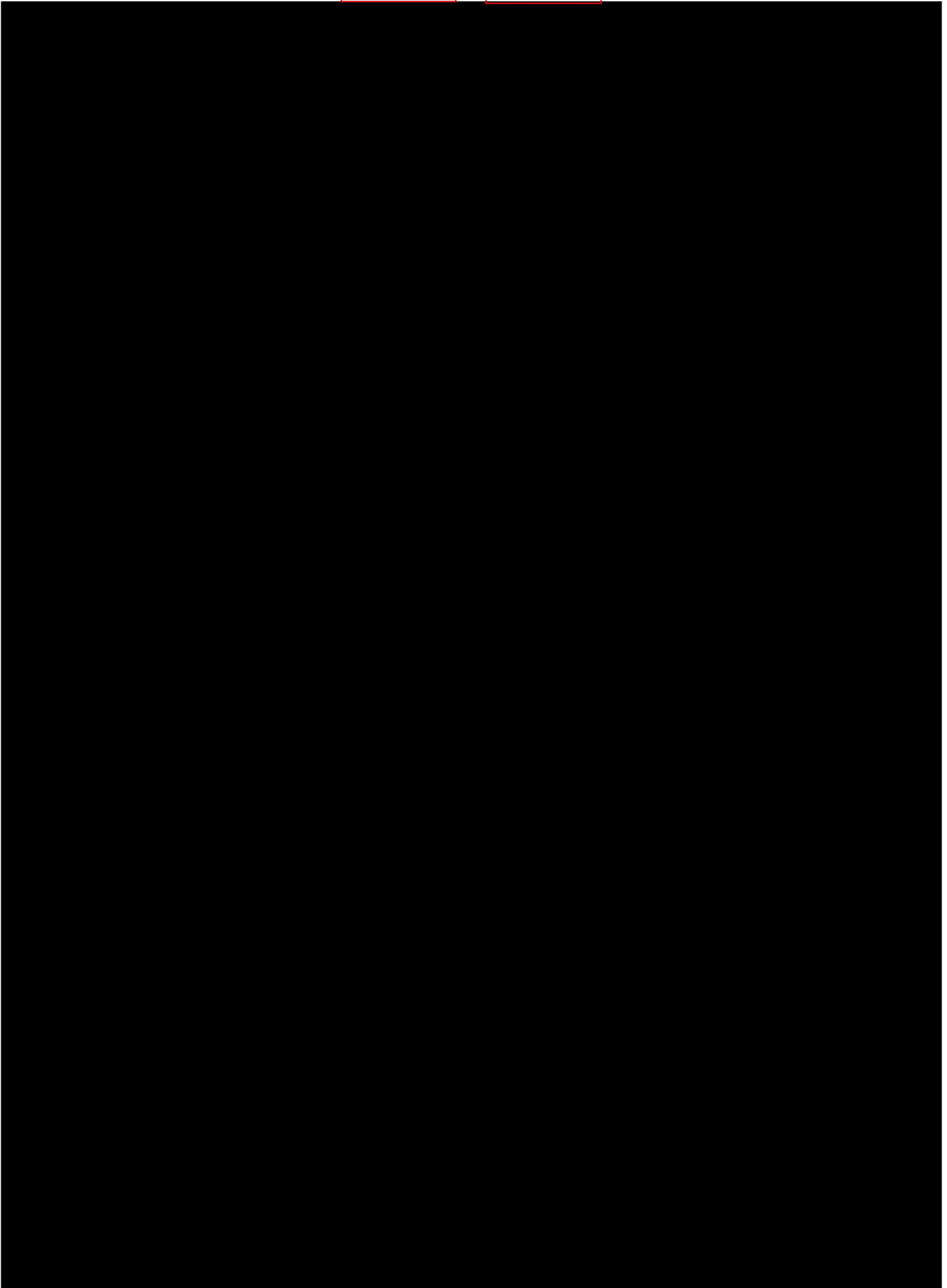
FROM: Larry Echo Hawk, Assistant Secretary – Indian Affairs

CC: Patrice Kunesh, Deputy Solicitor – Indian Affairs



FOIA5A

FOIA5C

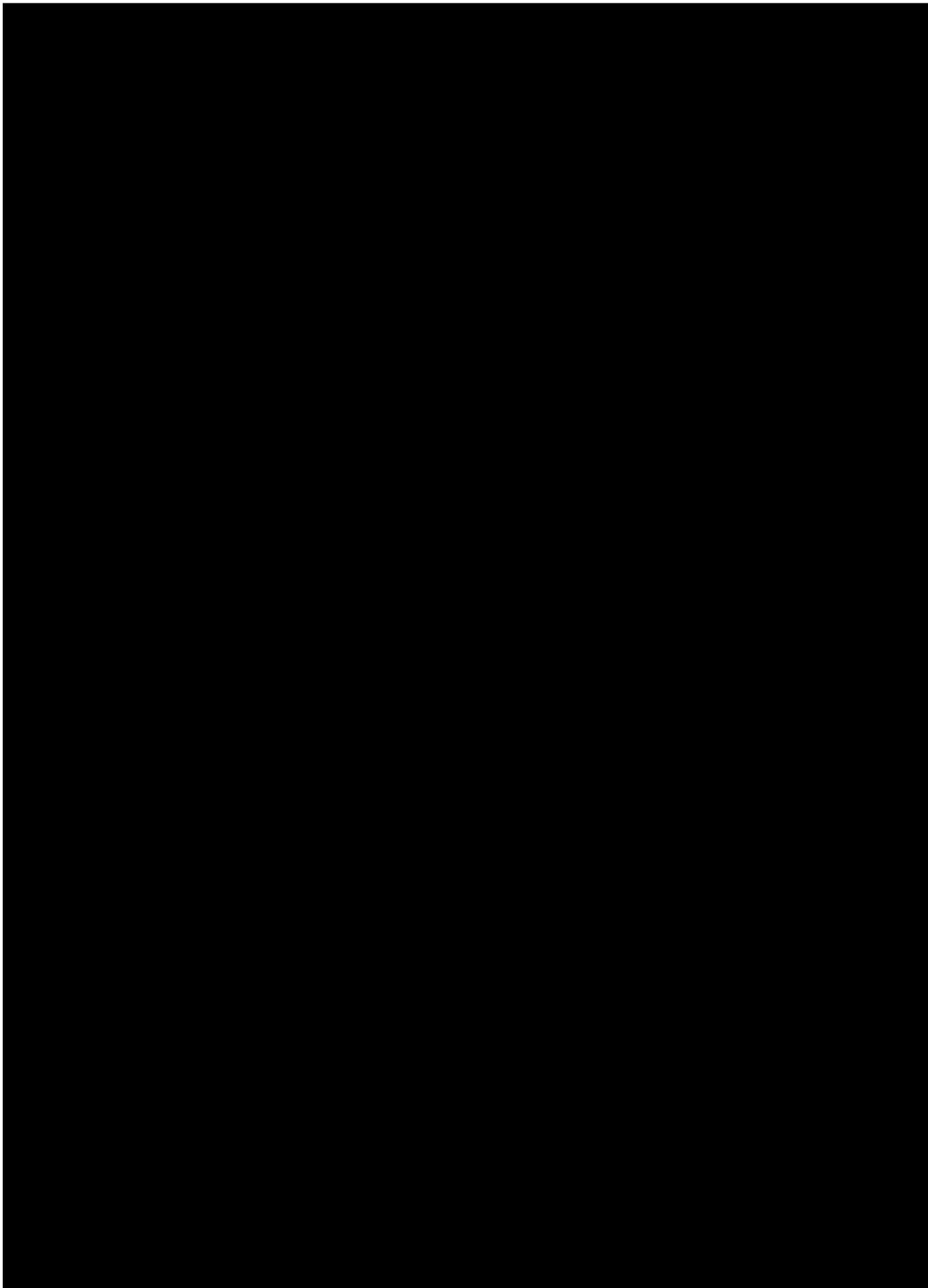




FOIA5A

FOIA5C





**SEC. 2. Limitation: exercise of authority.** (a) The authority delegated by section 1 of this order shall be exercised in accordance with all provisions of Title III of the Act with respect to negotiated contracts, all other provisions of law, and applicable regulations of the Department.

(b) The authority delegated by section 1 of this order shall expire on June 30, 1962.

**SEC. 3. Redlegation.** The authority delegated by section 1 of this order may not be redelegated.

STEWART L. UDALL,  
Secretary of the Interior.

May 29, 1962.

15840

**PROPERTY OF THE CALIFORNIA RANCHERIAS AND OF THE INDIVIDUAL MEMBERS THEREOF**

**Termination of Federal Supervision**

Notice is hereby given that the Indians named in the Redding Rancheria distribution plan and listed below are no longer entitled to any of the services performed by the United States for Indians because of their status as Indians, and all statutes of the United States which affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several states shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Title to land on this Rancheria has passed from the United States Government under the distribution plan of the Rancheria.

(Names of individuals omitted)

*Redding Rancheria*, 30.89 acres located within Lot No. 37, San Buenaventura Rancho, or what would be if surveyed Sec. 25, T. 31 N., R. 6 W., M.D.M., Shasta County, California.

15841

Reference, previous publication of termination notice, 28 F.R. 6875, dated August 1, 1961; the following corrections are made:

*Alexander Valley Rancheria*

*Lytton Rancheria*

This notice is issued pursuant to the Act of August 18, 1958 (72 Stat. 619), and becomes effective as of the date of publication in the FEDERAL REGISTER.

STEWART L. UDALL,  
Secretary of the Interior.

June 13, 1962.

15845

(Order 2884)

**COMMISSIONER, BUREAU OF INDIAN AFFAIRS**

**Delegation of Authority to Negotiate Contracts for Purchase of Equipment for Adapting of Road Building Equipment**

June 28, 1962.

**SECTION 1. Delegation.** The Commissioner of Indian Affairs is authorized, subject to section 2 of this order, to exercise the authority delegated by the Administrator of General Services to the Secretary of the Interior (27 F.R. 3017), to negotiate without advertising a contract under section 302(c)(10) of the Federal Property and Administrative Services Act of 1949, as

15898

amended (41 U.S.C. 252 et seq.), for the purchase and installation of four (4) Euclid scrapers and four (4) Euclid hydraulic units for conversion of four (4) Euclid Bottom Dump Tractor Trailers to tractor-scraper units.

**SEC. 2. Exercise of authority.** The authority delegated by section 2 of this order shall be exercised in accordance with the applicable limitations in the Federal Property and Administrative Services Act of 1949, as amended, and in accordance with applicable policies, procedures and controls prescribed by the General Services Administration and the Department of the Interior. The authority delegated by the order does not include authority to make advance payments under section 305 of the Act.

**SEC. 3. Redlegation.** The authority delegated by section 1 may not be redelegated.

STEWART L. UDALL,  
Secretary of the Interior.

17938

(Public Land Order 27381)

**CALIFORNIA**

**Revoking Departmental Order of November 9, 1916**

By virtue of the authority vested in the President and pursuant to Executive Order No. 10353 of May 26, 1952, and as Secretary of the Interior, it is ordered as follows:

1. The departmental order of November 9, 1916, temporarily reserving and setting aside the following described lands for use of the El Tejon Band of Indians, is hereby revoked:

SAN BERNARDINO MERIDIAN

T. 11 N., R. 17 W.  
Sec. 2, NW 1/4, SW 1/4, SW 1/4, lot 5h  
Sec. 12, NW 1/4, NE 1/4  
Sec. 28, S 1/4, S 1/4  
Sec. 24, SE 1/4, SE 1/4, SW 1/4  
Sec. 34, E 1/4, W 1/4, W 1/4

Containing 888.82 acres.

2. The lands which have never been used and are not needed by the Indians for any purpose, are in scattered tracts about 14 to 16 miles southwest of the town of Tehachapi. They are accessible only by foot, and are steep and rough in topography.

3. The lands are hereby restored to the operation of the public land laws, subject to any valid existing rights, the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals, provided, that until 10:00 a.m. on January 26, 1963, the State of California shall have a preferred right to apply to select the lands in accordance with subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

4. The lands shall be open to applications and offers under the mineral leasing laws and to location under the United States mining laws, beginning at 10:00 a.m. on January 26, 1963. Lease applications received prior thereto will be considered as filed at that time.

Inquiries concerning the lands shall be addressed to the Manager, Land Office,

Bureau of Land Management, Riverside,  
California.

JOHN A. CARVER, Jr.,  
Assistant Secretary of the Interior.

July 27, 1962.

18521

[Public Land Order 2756]

# MONTANA

## Restoring Lands to Tribal Ownership of the Northern Cheyenne Tribe

Whereas, pursuant to authority contained in the Act of June 3, 1936 (44 Stat. 691), certain lands within the Northern Cheyenne Indian Reservation, Montana, were reserved for a townsite at Lame Deer, Montana, and

Whereas, there are two vacant undisposed of lots within the townsite herein referred to, and

Whereas, the Tribal Council and the Commissioner of Indian Affairs have recommended restoration of the lands involved to tribal ownership,

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by sections 3 and 7 of the Act of June 18, 1894 (48 Stat. 394), I hereby find that restoration to tribal ownership of the following-described townsite lots will be in the public interest and the lots are hereby restored to tribal ownership for the use and benefit of the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana, and are added to and made a part of the existing reservation, subject to any valid existing rights:

LAME DEER TOWNSITE

Block 11, lot 1;  
Block 25, lot 2.

Containing approximately 0.25 acre.

JOHN A. CARVER, Jr.,  
Assistant Secretary of the Interior.

August 20, 1962.

111560

[Order 2506, Amel. 52]

## BUREAU OF INDIAN AFFAIRS

### Delegation of Authority

Paragraph (D), as amended (17 F.R. 1570; 25 F.R. 831), of section 11 of Order 2508 is further amended to read as follows:  
SEC. 11. *Funds and fiscal matters.* The Commissioner may exercise the authority of the Secretary in relation to the following classes of matters:

(f) The approval of attorney contracts with Indian tribes and of directly related tribal contracts with technical specialists, and the determination of fees and expenses thereunder, pursuant to 25 U.S.C. 81, 82, 84, and 476.

The authority delegated to the Solicitor to approve attorney contracts with Indian tribes (25 F.R. 831) and appearing in 210 DM 2.2A(10) is revoked.

STEWART L. UDALL,  
Secretary of the Interior.

November 18, 1962.

## VOLUME 28-1963

1122

### Trust Periods Expiring During Calendar Year 1963

By virtue of and pursuant to the authority delegated by Executive Order No. 10250 of June 5, 1951, and pursuant to section 5 of the Act of February 8, 1887 (24 Stat. 388, 389), the Act of June 21, 1906 (34 Stat. 325, 326), and the Act of March 2, 1917 (39 Stat. 969, 976), and other applicable provisions of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended would expire during the calendar year 1963 be, and the same are hereby extended for a period of five years from the date on which any such trust would otherwise expire.

This Order is not intended to apply to any case in which Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

STEWART L. UDALL,  
Secretary of the Interior.

December 27, 1962.

11048

[Public Land Order 2907]

# UTAH

## Partly Revoking Departmental Order of June 29, 1957; Restoration of Lands in Power Withdrawals

By virtue of the authority vested in the Secretary of the Interior by section 4 of the Act of March 3, 1927 (44 Stat. 1347; 25 U.S.C. 388d), and in section 24 of the Federal Power Act of June 10, 1929 (41 Stat. 1075; 16 U.S.C. 818), as amended, it is ordered as follows:

1. The Departmental order of June 29, 1957, withdrawing lands in aid of legislation to add such lands to the Navajo Indian Reservation is hereby revoked so far as it affects the following described lands:

SALT LAKE MERRIMAN

T. 40 S., R. 21 E.  
Sec. 31, 32.

Containing 820 acres.

2. The following described lands withdrawn in Power Site Classification No. 218 or No. 347, or in Power Site Reserve No. 122, were, wholly or in part, the subject of favorable determinations of the

## TREATY WITH THE CASTAKE, TEXON, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP PERSIFER F. SMITH, AT THE TEXAN PASS, STATE OF CALIFORNIA, JUNE 10, 1851, BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE "CASTAKE," "TEXON," &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Persifer F. Smith at the Texon pass, in the State of California, on the tenth day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Castake, Texon, San Imirio, Uvas, Carises, Buena Vista, Sena-hu-ow, Holo-cla-ma, Soho-nuts, To-ci-a, and Hol-mi-uh, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the government of the United States, and undertake and promise on their part, to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes at peace with the United States.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done individuals of either party, to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following district of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: beginning at the first forks of Kern river, above the Tar springs, near which the road travelled by the military escort, accompanying said commissioner to this camp crosses said river, thence down the middle of said river to the Carises lake, thence to Buena Vista lake, thence a straight line from the most westerly point of said Buena Vista lake to the nearest point of the Coast range of mountains, thence along the base of said range to the mouth or westerly terminus of the Texon pass or Canon, and from thence a straight line to the beginning; reserving to the government of the United States and to the State of California, the right of way over said territory, and the right to erect any military post or posts, houses for agents, officers and others in the service or employment of the government of said territory. In consideration of the foregoing, the said tribes of Indians, jointly and severally, forever quit claim to the government of the United States to any and all other lands to which they or either of them now have or may ever had any claim or title whatsoever.

ART. 4. In further consideration of the premises and for the purpose of aiding in the subsistence of said tribes of Indians for the period of two years from this date, it is agreed by the party of the first part to furnish said tribes jointly, (to be distributed in proper proportions among them,) with one hundred and fifty beef cattle, to average five hundred pounds each, for each year. It is further agreed that as soon after the ratification of this treaty by the President and Senate of the United States, as may be practicable and convenient, the said tribes shall be furnished jointly (to be distributed as aforesaid) and free of charge, with the following articles of property, to wit: six large and six small ploughs, twelve sets of harness complete, twelve work mules or horses, twelve yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty mattocks or picks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pantaloons and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, same of cotton

cloth, and the same of coarse calico, for clothing for the women and children, twenty-five pounds of thread, three thousand needles, two hundred thimbles, six dozen pairs of scissors, and six grindstones.

ART. 5. The United States agree further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one man skilled in working wood, (wagon maker or rough carpenter;) one superior and such assistant school-teachers as may be necessary; all to live among, work for, and teach said tribes and such others as they may be required to work for and teach. Said farmer, blacksmith, worker in wood and teachers to be supplied to said tribes, and continued only so long as the President of the United States shall deem advisable; a school house and other buildings necessary for the persons mentioned in this article, to be erected at the cost of the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names, and affixed their seals, this the day and year first written.

Texon:

G. W. BARBOUR. [SEAL.]

VINCENTE, his x mark, chief. [SEAL.]  
CHICO, his x mark, chief. [SEAL.]  
PABLO, his x mark. [SEAL.]  
JOSE ANTONIO, his x mark. [SEAL.]  
MARTIN, his x mark. [SEAL.]  
FRANCISCO, his x mark. [SEAL.]

Castake:

RAFAEL, his x mark, chief. [SEAL.]  
FRANCISCO, his x mark. [SEAL.]  
MANUEL, his x mark. [SEAL.]

San Imirio:

JOSE MARIA, his x mark, chief. [SEAL.]  
FRANCISCO, his x mark. [SEAL.]

Uvas:

ANTONIO, his x mark. [SEAL.]

Carises:

RAYMUNDO, his x mark, chief. [SEAL.]  
JUAN, his x mark. [SEAL.]  
JUAN DE DIOS, his x mark. [SEAL.]

Buena Vista:

APOLONIO, his x mark, chief. [SEAL.]

Sena-hu-ow:

JOAQUIN, his x mark, chief. [SEAL.]  
EMITERIO, his x mark, chief. [SEAL.]  
NICOLAS, his x mark. [SEAL.]  
BENANCIO, his x mark. [SEAL.]

Holo-cla-me:

URBANO, his x mark, chief. [SEAL.]  
OLORICO, his x mark. [SEAL.]

Soho-nuts:

JOSE, his x mark, chief. [SEAL.]  
MARIANO, his x mark. [SEAL.]

To-ci-a:

FELIPPE, his x mark, chief. [SEAL.]  
PEDRO, his x mark. [SEAL.]  
URBANO, his x mark. [SEAL.]

Hol-mi-uh:

FRANCISCO, his x mark, chief. [SEAL.]  
TOMAS, his x mark. [SEAL.]

Signed and sealed in duplicate, after having been read and fully explained in the presence of—

H. S. BURTON, *Interpreter.*

KIT BARBOUR, *Secretary.*

W. S. KING, *Assistant Surgeon, United States Army.*

J. H. LENDRUM, *Brevet captain, third artillery.*

J. HAMILTON, *Lieutenant, third artillery.*

H. G. J. GIBSON, *Second lieutenant, third artillery.*

WALTER M. BOOTH.

#### TREATY WITH THE DAS-PIA, YA-MA-DO, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP UNION, NEAR YUBA RIVER, JULY 18, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES INDIAN AGENT, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE DAS-PIA, YA-MA-DO, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and concluded at Camp Union, near the Yuba river, between the United States Indian Agent, O. M. Wozencraft, of the one part, and the chiefs, captains, and head men of the following tribes, viz: Das-pia, Ya-ma-do, Yol-la-mer, Wai-de-pa-can, On-o-po-ma, Mon-e-da, Wan-muck, Nem-shaw, Bem-pi, Ya-cum-na tribes, of the other part.

July 18, 1851.

Unratified

ARTICLE 1. The several tribes or bands above-mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms of peace and friendship among themselves and with all other Indian tribes which are now or may come under the protection of the United States; and furthermore bind themselves to conform to, and be governed by the laws and regulations of the Indian bureau, made and provided therefor by the Congress of the United States.

ART. 3. To promote the settlement and improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of country in the State of California, shall be, and is hereby set apart forever for the sole use and occupancy of the aforesaid tribes of Indians, to wit: commencing on Bear River, at the western line or boundary of Camp Far West; from thence up said stream twelve miles in a due line; from thence on a line due north to the Yuba river; thence down said stream twelve miles on a due line of the river; from thence south to the place of beginning, to have and to hold the said district of country for the sole use and occupancy of said Indian tribes forever. *Provided*, That there is reserved to the government of the United States the right of way over any portion of said territory, and the right to establish and maintain any military post or posts, public building school houses, houses for agents, teachers, and such others as they may deem necessary for their use or the protection of the Indians. The said tribes or bands, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ART. 4. To aid the said tribes or bands in their subsistence, while removing to and making their settlement upon the said reservation, the United States, in addition to the few presents made them at this council, will furnish them, free of charge, with five hundred (500) head of beef cattle, to average in weight five hundred (500) pounds two hundred (200) sacks of flour, one hundred (100) pounds each, within the term of two years from the date of this treaty.

ART. 5. As early as convenient, after the ratification of this treaty by the President and Senate, in consideration of the premises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life, the United States



5-1100  
(El Tejon Indians)

RECEIVED DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
WASHINGTON, D. C.

(118429-15)

San Francisco, Calif. Dec. 12, 1915.

Commissioner Indian Affairs,  
Washington, D. C.

Dear Sir:

*Already sufficiently answered in San Francisco. Trans. to Bureau.*

Referring to letter from the Office of, Nov. 23, 1915, addressed to Mr. Harry Chandler of the Los Angeles Times, Los Angeles, California, carbon copy kindly furnished me, relative to the above named Indians, have the honor to advise that during my recent trip through Bakersfield, Kern County, California, enroute to Los Angeles, in the interests of the "Ladino Indians" of Kings County, having been informed that the El Tejon Indians had not and were not receiving proper treatment by the owners and manager of the land on which their rancheria is located, deemed it advisable to stop off and investigate.

I note from carbon letter above referred to that the Office is in receipt of various communications from citizens of Bakersfield who report that present owners of land are not favorably disposed toward these Indians. I am not advise as to nature and extent of these reports, however, regret to say that my investigation made among these people, having visited their rancheria and carefully gone through and inspected each cabin home, causes me to conclude the citizens of Bakersfield have been fully justified in writing the Office in the interests of these Indians. By auto in company with Mr. T. J. Canine of Bakersfield, the auto driver and an Indian, I visited this rancheria which is situated about 40 miles to the south or slightly to the west of Bakersfield, consisting of some 10 to 12 individual cabins located on either side and quite a well running creek of water, and in the immediate vicinity of a large body of water.

Page 2 -

being very little furniture of any kind and exceedingly scant of both bedding and clothing. The extent of the enclosed and used lands of these Indians will not exceed 15 acres, consisting of 8 or 10 small patches, the largest being that of the Chief, Juan Lozada, who has about  $3\frac{1}{2}$  acres in his enclosure, the others ranging from  $\frac{1}{2}$  to about one acre, likely averaging  $\frac{1}{2}$  acre, given chiefly to garden uses, tho. the Chief has grown during the past year some native hay and has about  $\frac{1}{2}$  acre in alfalfa.

My information was that under orders of the ranch manager, J.J. Lopez, these Indians have not and will not in the future be permitted to increase their live-stock holding to any extent, not even sheep, goats or hogs. They have a few horses, comparatively few, not exceeding 10 head, of which only 6 or 7 of any servicable value. There is not a milk cow on the rancheria, and was told by the Indians they are not permitted to own cattle. That during the past summer they were ordered not to take water from the company ditch to irrigate their gardens.

The Catholic people have built for these Indians a very neat little house for religious worship, but according to information of the Chief and Mr. Castro, its door has been closed and locked against these people for some time. There is centrally built a very neat little school house, erected by the County, but being denied the advantages of a school this year on account of the orders of Lopez, since the recent burning of Chief Lozada cabin home, has only been occupied by him. Lumber sent by the County this year to add to or in some way improve the school house has not and will not be used, having been recently sold, on account, of opposition of the manager, who evidently acts under instructions from ranch owners.

Prof. R.L. Stockton, ex-Supt. of Schools, resident of Bakersfield, informed me that during his administration Lopez attempted to prevent his opening and operating a school on the Indian rancheria.

Page 3.

that he became so persistent in his opposition that he told him if he "further interfere that he would have him arrested".

The night before leaving Bakersfield I called on the present Supt. Public Schools to learn why no school by the County has for some time not been carried on for these Indians, and was informed by him that it was the opposition of the ranch owners through their manager, Lopez. This manager acting under instructions from the ranch owners by repeated and persistent efforts has, I was informed, caused every Indian, except the Chief, representing the head of a family or living in any one of the cabin homes to sign some character of agreement or lease contract, which I suppose is intended more as recognition of the rights of the owners and an estoppel to the Indian setting up any claim to the land, than any thing else. The older Indians of this band have not entirely abandoned the conviction that they have a legal right to the land on which their old village was situated. The following type-written notice was through Lopez served on Chief Lozada, viz: "June 28, 1915. To Juan Lozada (Chief Tejon)

You are hereby notified not to put any improvements, or buildings, or structures of any kind upon any of the lands and premises of the Tejon Ranch or Company, unless you sign a lease with them and permission is given you to so do- Tejon Ranch Co. by J.J. Lopez, Manager."

The recent burning at night of Lozada's home during his and his ~~wife's absence~~ wife's absence in Bakersfield and the serving of this notice causes he and the other Indians to believe the ranch people are responsible for the burning of his house. Castro also shares in this conviction.

Through Castro and the Chief learn that the ranch owners give employment to from 8 to 12 of the most able-bodied of these Indians for from 2 to 3 months during each year, paying a nominal wage, slightly less than is usually paid for such work, and that 2 to 3 have work on the ranch nearly the entire year. These Indians taken as a whole are mentally rather weak, with possible exception of the Chief, and therefore more easily imposed upon. As I noted the situation, so long as through 1/6

their present manager these Indians may be kept environed, controlled and used as in the past,"there is not the remotest probability of the present owners of the ranch desiring to make any change which will effect adversely the interests of the Tejon Indians."

As I see it, these Indians have proven more of an asset to this ranch than a disadvantage. I am confident not a single Indian has every been employed by the ranch owners until needed and only kept in service as long as their interests suggested, and I am reasonably certain that no better wages<sup>have</sup> been paid them than paid for similar work elsewhere. This ranch consists of over 200,000 acres, and the Indian rancheria situated as it is therein, hardly mentally capacitated to protect himself against impositions, far removed from white friends<sup>he,</sup> who might see and protect him, denied the possibility of ever increasing his holdings, in that these ranch owners, as I understand, refuse to sell <sup>n</sup> any part of their holdings for a permanent home for these people, nor, under present successful management, can he hope for a school for his children, causes me to conclude that these Indians should be removed entirely off this company land as soon as possible.

During my short stay in Bakersfield in efforts to secure reliable information concerning these Indians, after first meeting Castro, who was suggested to me as the best and most valuable friend to these people, at his suggestion I called upon Mr. R. McDonald, editor of one of the papers, 1723 Chester Ave., E. J. Emmons, Atty. in Producers Bank Building, Judge H. A. Peairs, Judge of the Superior Court, Prof. R. L. Stockton and some few others. All of these gentlemen expressed the opinion, though with some, such opinion was reached largely from other than actual personal knowledge, that these Indians have not in the past met with just, fair and humane treatment, some seemingly believing that their present condition<sup>is</sup> ~~is~~ little short of peonage.

117

Page 5.

It is with deep regret that duty as I understand it, for I feel that the Office <sup>should</sup> hear what I have heard, forces me to report the most serious charge yet mentioned. The man, T.C. Castro, who has spent considerable of his time among these Indians, has known the band all his life, speaks their language as well or better than they do, makes no secret in the charge that during the past several years this man Lopez, who, has been on this ranch for the past 35 or 40 years, since company ownership as ranch manager, has so managed as to be able to take unlawful and unholy advantage of a number of the young and most prepossessing girls of this band, accomplishing his unholy deeds, <sup>Castro</sup> ~~has~~ insist, about the period of their reaching young womanhood, or soon thereafter.

I made mention of this serious charge to Judge Peairs, who had to say that while he had heard these charges, and that Castro had discussed the same with him, yet he could conclude they have every reached such nature as to be susceptible of proof in court. The remoteness of the Indian rancheria and the ignorance of these people make them easy victims of wicked designing men.

Both Mr Emmons and Mr. McDonald have promised to try and find some suitable location for these Indians to the east, up the creek outside of the ranch company enclosure, and write me results of their efforts.

Mr McDonald expressed the conviction that such place could be found, and that <sup>these</sup> people should be removed as soon as possible.

I shall write both he and Mr. Emmons within the nex few days.

If not under present appropriation, then would suggest that under next, this Indians should have first relief from their present unfortunate environments.

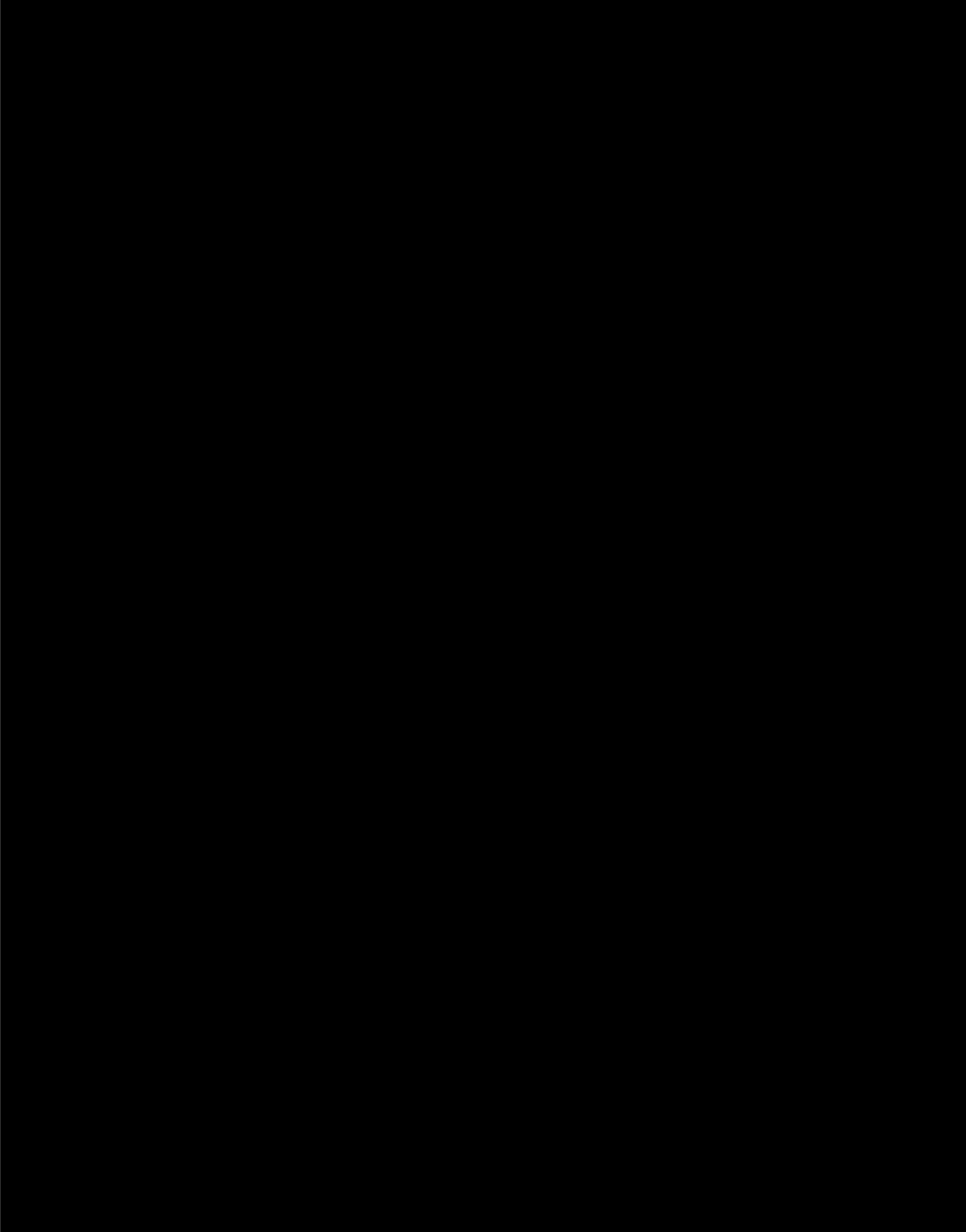
Very respectfully,

  
Special Indian Agent.

(See Census hereto attached, numbeing a total of 79.)

FOIA6

ensus of the Indians of El Tejon Band In Kern Co. Calif.



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OFFICE OF INDIAN AFFAIRS  
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Total, 79.

Respectfully submitted,

*John J. Ferrell*  
Special Indian Agent.

*Payee*

119

Land Department  
113333-1916  
P B M

*Consent  
Spec Comm Three  
Nov 10, 1916*

NOV --7 1916

The Honorable

FOR FILE

the Secretary of the Interior.

Sir:-

The Office has the honor to recommend that the E/2 NW/4, the SW/4 SW/4 Sec. 2; the NW/4 NE/4 Sec. 12, S/2 S/2 Sec. 26; the SE/4 SE/4, and the SW/4 SW/4 Sec. 28; the E/2 Sec. 34, and the W/2 W/2 Sec. 34, T. 11 N., R. 17 W., of the San Bernardino Meridian, containing 880 acres, be temporarily reserved and set aside for the use of the El Tajon band of Indians, Kern County, California.

In this connection attention is invited to the enclosed letter dated September 21, 1916, from Special Commissioner J. J. Terrell, setting forth in detail the land condition and need of these Indians, and suggesting that if possible certain lands be set aside at the earliest possible date.

Attention is also invited to the letter of the Department dated October 25, 1916, to the Attorney General, recommending the institution of a suit to protect these Indians in the lands now occupied by them.

*Posted*  
NOV 16 1916  
*C.W.R.*

FOR FILE

FILED BY M. A. 2



However, should the United States be unsuccessful in this suit, the Office believes it would be advantageous to have the foregoing lands reserved for the use of the Indians. Since it is not now certain that they will be ejected, the Office believes that at present only a temporary withdrawal is necessary.

A letter, dated October 26, 1916, from the Assistant Commissioner of the General Land Office shows that the lands above described are vacant.

Respectfully,  
(Signed) C. F. Hauke

11-PS-4.

Chief Clerk.

NOV -9 1916  
Approved and referred to the Commissioner of the General Land Office for action in accordance with the foregoing recommendations.

(Sgd.) BO SWEENEY.  
Assistant Secretary  
WEP

IN THE NATIONAL ARCHIVE

Land-Atty.  
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OCT 28 1916

Mr. J. J. Terrell,

Special Commissioner, Indian Service,

General Delivery, Sacramento, Calif.

My dear Mr. Terrell:

The Office incloses herewith for your information

carbon copies of correspondence dated October 21 and

October 22, 1916, requesting the institution of separate

suits in the United States District Court for the Southern

District of California to protect the interests of the

El Tejon Indians.

Very truly yours,

(Signed) C. F. Hauke

Chief Clerk.

HB-10-27

and Allotments  
JCS88-1914  
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P B M

FOR FILE

Return to Indian Office

1012

Dear Mr. Attorney General:

I have the honor to transmit herewith a communication with enclosures received from the Office of Indian Affairs regarding the institution of a separate suit in the United States District Court for the Southern District of California to protect the interests of the El Cajon Indians in their homes located in Kern County, California.

Your attention is invited to the suggestion of the Indian Office that it be possible, Mr. John P. Crowder, be detailed to the case by reason of its importance and the inability of the Assistant United States Attorney to give it sufficient time and attention.

I also invite your attention to a statement made in the enclosed letter from the Indian Office relative to a hearing held in the matter of two suits filed by the Oklahoma Indian Survey Company of San Antonio, California, to quiet title and other claims from the Osage Reservation.

Cordially yours,

(Signed) Bo Sweeney

Assistant Secretary

INITIALING COPY FOR FILE

Enc. 80

INITIALING COPY - FOR FILE

Review to Indian Office

The land occupied is a part of the El Tefon Ranch  
 which comprises over 2,000 acres originally conveyed to Jose  
 Antonio Arce and Ignacio del Valle, by the California Land  
 Commission on May 8, 1886, under the act of March 3, 1881  
 (9 Stat. L., 531). This state was also confirmed on appeal  
 by the District Court of the United States for the Southern  
 District of California.

There Indians, now 75 in number, live near Baker-  
 field in Kern County, California, on lands which, it surmised,  
 would probably be described as Sec. 10, T. 11 N., R. 17 W.  
 Here they have erected a chapel and placed small areas under  
 cultivation. They maintain tribal relations and the record  
 evidences a continued occupancy of these lands for at least  
 100 years.

The Office has the honor to submit the following  
 statement of facts relative to the El Tefon Indians, with a  
 view to having the Department of Justice take whatever action  
 may be deemed advisable for the protection of their interests.

M

Sir:  
 The Secretary of the Interior.  
 The Honorable,

Handed to El Tefon.  
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It seems that the Department has been requiring the  
reported by the Department May 21, 1918.  
no longer necessary for continuing the withdrawal. It was  
also formerly placed toward the Indians and that there was  
and 17 N. In fact, when it was reported that the ranch owner  
10,000 acres) in location township 11 and 12 N., Range 12  
temporarily all vacant lands (amounting to approximately  
May 15, 1914, the Department requested for these Indians  
In this connection, it may be mentioned that on  
found.

been taken up and it is doubtful whether such lands can be  
that all public lands of any value in that neighborhood had  
However, a former special agent reported after examination  
to the status of certain alleged public lands in that vicinity.  
is under date January of the General Land Office relative  
to remove these Indians, but with no success. This Office  
have been made through Mr. Howell to find a suitable place  
present conditions of these Indians is unsatisfactory. Reports  
a number of these reports the Office is convinced that the  
General who was sent there to investigate conditions, and as  
statements of Bakerfield but also from Special Commissioner  
the Bannocks. These reports have not only come from many

Indians to enter into a lease, for a nominal rental, such lease was also entered into by them in employment about the ranch. Several written and verbal assurances have been given by Mr. Chandler and ranch manager Jones that the Indians are not being motivated in any way. These assurances do not agree with the reports of Special Commission Jettell and the relations of Jettell with the Indians to give which will be found in the record, addressed to the chief of these Indians, presumably for the reason that he refused to enter into a lease. It further appears that a suit in ejectment has been begun by the syndicate in the Justice Court at Del Norte. Mr. J. J. Johnson to whom the Indians applied for counsel some time ago has interested himself in their case and is preparing their defense without compensation.

In the case of *Johnson v. Allen* (44 Cal. 628), the Supreme Court of California held that the constitution of a grant under the act of 1881, supra, together with the issuance of a patent by the United States, took the title in proceeds of the same situation as it was at the time of the treaty of Guadalupe Hidalgo (9 Stat. 1, 232). Undoubtedly, however, a similar case was decided in the Superior Court of the County of San Diego in the matter of the adjustment of certain Indian

Attorneys. It is suggested that even if the home of these  
of these Indians to whatever rights they may have to their  
by the proper United States Attorney to protect the interests  
letter to the Attorney General requesting that action be taken  
The office has prepared the enclosed draft of a  
in a similar case arising at this time.  
that a different position might be taken by the Supreme Court  
abandoning their claim, the Office believes it quite possible  
able to suppose that they had any intention whatsoever of  
the fact that the status of these Indians provides a reason-  
them as wards of the government, and if claims were laid upon  
a tendency to greater consideration of the rights of the in-  
decisions of the United States Supreme Court have indicated  
Commission created under the act of 1851. However, later  
action of the Mexican government, by not presenting it to the  
was that the Indians had abandoned their claim founded on the  
The ratio decidendi of the "Dunsmuir Ranch case"  
Supreme Court (181 U. S. 481).  
law. It was sustained in this opinion by the United States  
opinion in the case of *Baker v. Allen*, supra, was no longer  
the Superior Court of the state of California stated that the  
544, and it was held that these Indians might be ejected.  
from the *Dunsmuir Ranch* (Hearby v. Baker - 126 Cal.



Assistant Commissioner.

10-21-2

Respectfully,

assistance lies in their power. will be glad to render the United States Attorney whatever school, which is the nearest school to the land in question. Enclosure, and Superintendent Frank A. Smith of the State Normal School, General Bellamy.

Department of Justice. a purchase might be made. If it should be recommended by the the Indians. The Office has funds available from which such United States at a reasonable price of the lands occupied by would be willing to compromise the matter by a sale to the the Indians might at least be placed in a position where it Indians might not be harassed for them in fee by this method.

File

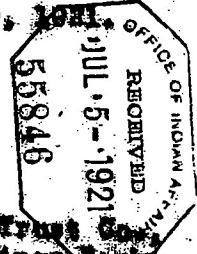
38388-14  
MAP  
R. 103230.

The Attorney General,  
Washington, D. C.

230 Postoffice Building,

Denver, Colorado, June 29, 1921.

FILED BY M. P. J.



Tejon Indians.

United States v. Title Insurance and Trust Co.,  
a Corporation, Security Trust and Savings Bank,  
a Corporation, Harry Chandler, O. P. Grant, M.  
H. Sherman and E. P. Clark.

Sir:

This case presents features of such interest and importance, both legally and extra-legally, that, in view of the changes of personnel in your office, it seems desirable to call your attention to its status and possibilities. The accumulated correspondence, evidentiary matter and legal memoranda in this office are very voluminous and nothing but the briefest epitome can be attempted here.

1. The Tejon:

From time immemorial the Tejon Indians have occupied a tract called the Tejon which includes the extreme southern end of the San Joaquin Valley, Kern County, California, and extends into the mountains adjoining. As early as the arrival of the first American pioneers they were found subsisting not only by hunting and fishing, and by gathering the natural produce of the soil, but also by irrigating and cultivating small tracts of land. They were then as now peaceful, sedentary and agricultural Indians, living in more or less permanent settlements and bands.

Jm  
Lal

and possessing, under the doctrine repeatedly announced by the United States Supreme Court, the ordinary Indian title of occupancy and possession of the land actually inhabited or used by them.

In 1843, while California still formed part of Mexico, two Mexicans, Aguirre and del Valle, applied for and in 1845 obtained a grant of a large tract, including this territory. This grant contains a specific condition that the grantees shall not interfere with the cultivation or other advantages of the resident Indians, and no such interference was attempted by the original owners. After California passed under the sovereignty of the United States in 1848, this grant was confirmed by the Board of Commissioners for settling land claims, by the United States District Court and by the Supreme Court.

In 1881, a treaty was negotiated with this tribe by commissioners delegated by Congress for the purpose, whereby, in consideration of the confirmation of certain lands to them for their exclusive occupancy and the performance of other stipulations by the United States, they agreed to surrender the remainder of their territory; but this treaty was never ratified by the Senate and no treaty or agreement of any sort was ever consummated with these Indians.

Shortly afterwards the Mexican grantees sold the grant, which through various means conveyances finally came into the hands of the Title Insurance and Trust Company, the present holder of the fee title. The Security Trust and Savings Bank Att'y Gen'l-3.

is a mortgage and Chandler, Brant, Sherman, Clark, and perhaps others have some beneficial interest, the exact nature of which is unknown to us. It must be an important interest since they and their agents have actual possession and control of El Tejon Rancho, comprising nearly 100,000 acres and including the Indian land which forms the subject matter of the suit. These men also control adjacent properties aggregating probably 200,000 acres, which are held and operated in conjunction with El Tejon Rancho. They are among the largest and wealthiest land owners in Southern California.

For many years the Indians remained unmolested in their possession and indeed about 1852 and for some time thereafter were encouraged to extend and intensify their cultivation by Lieutenant E. F. Beale, who designed to establish a reservation including their territory until he discovered that the land had already passed into private ownership, by the grant above mentioned. Thereupon, he purchased it himself and for a long time thereafter it seems that the Indians retained their possession undisturbed. Beginning at some time not exactly known, but perhaps about 1880, however, the then agents commenced a policy of restriction and repression which has been continued and intensified down to the present time. The Indians have been gradually driven or pressed back until now a remnant of the tribe occupy and cultivate only some 65 acres of their original holdings; most of their cultivated fields have been thrown into the cattle range; their use of water for irrigation has been

Atty Gen'l-3.

restricted or denied. Occupied houses have been pulled down or burned (it is believed that at least one occupied house was deliberately destroyed by fire during the temporary absence of the family). They have been prevented from repairing their huts even when they had material collected for the purpose; they have been denied the right to keep cows to furnish milk for their children, and apparently are permitted to retain their present precarious foothold at all only because they are useful as cowboys and laborers on the ranch. A small portion of their pay is withheld under the name of rent in order to prevent the accrual of a title by adverse possession under California laws. Until the present year they have had no school facilities for their children and only one of the band is able to speak a little English.

Their condition of practical peonage excited the indignation of various persons interested in Indian rights, including some of the residents ofakersfield, the nearest place of importance. The Catholic Church which exercised jurisdiction over these Indians in the days of the California missions and whose connection with them has never entirely ceased renewed its interest in the situation and sermons were preached from both Catholic and Protestant pulpits against conditions prevailing on the ranch. Representations were made to the Indian Office which, after confirming the facts above recited by preliminary investigation, referred the matter to the Department of Justice with a request to bring suit if justified. Since then a further reply has been received.

inquiry into the facts and law has been carried on, from time to time in intervals of other work, by Mr. Truesdell and other Special Assistants, including the writer.

It was difficult to ascertain many of the facts determinative of the legal status of the Indians, since it was necessary to go back to 1843, when the country was unmapped and record evidence almost non-existent. In the Spring of 1920, however, we felt sure enough of our ground to approach Mr. Chandler, the Managing Director of the Tejon Ranch Syndicate, in an effort to procure in any reasonable form a secure establishment of the Indians upon some definite tract of land, including, if possible, their present habitat, which is not only their ancestral home, but is well wooded and watered and in many ways desirable for this purpose. Nothing, however, could be accomplished in the way of a compromise, either by personal interviews or correspondence and, all other means having been tried in vain, suit was brought in December, 1920.

The salient facts of this case in their legal relations will be found set forth with as much precision and conciseness as possible in the complaint, a perusal of which is invited.

### 3. The Law:

The writer has examined all discoverable decisions of the Supreme Court of the United States bearing on this situation, and has compiled a memorandum of about 100 pages summarizing them in order. He has not yet had opportunity to systematize or index all of the deductions which may properly be drawn from these decisions, but believes that the following principles are correct and maintainable.

Atty Gen 1-5.

(a) These Indians have an original right and title of occupancy and possession prior to the right or title of Spain, Mexico or the United States, which can be extinguished only by the Sovereign, and which until so extinguished is as sacred as the Sovereign title or the fee title.

(b) This Indian title is not extinguished by a mere grant in fee by the Sovereign.

(c) It is extinguished only by express words or acts indicating that purpose, of which there have been none in this case; and in the history of the United States has been abrogated usually by treaty and always on some terms of compensation to the Indians.

(d) This Indian title of occupancy and possession was recognized by Mexican law which in this respect was practically identical with the law of the United States. The Tejon Indians held that title to the lands described in the complaint at the time of the treaty of Guadalupe Hidalgo, and by that treaty the United States undertook to respect it.

(e) This Indian title was further fortified in the instant case by the provision in the Mexican grant above mentioned forbidding the grantees to interfere with their cultivation or advantages.

The above statements of law are unquestionable and would clearly establish the Indians' right to a secure and unqualified possession and was undisturbed by the aggressions of the present Atty Gen'l. S.

others were it not for the case of *Barker v. Harvey*, 181 U.S. 481, in which the Supreme Court held that Indians in a somewhat similar situation lost their title by failure to present it for confirmation to the Board of Commissioners appointed by the Act of 1851 to adjust land claims in California. This decision has been the subject of careful study by members of this office who have unanimously concluded that it is not only distinguishable in fact from the circumstances of this case, but that it is absolutely inconsistent with numerous other decisions by the same Court, both earlier and later, as well as with the present disposition and line of thought of the Court as now constituted; that there is excellent chance that when the case at bar reaches the Supreme Court *Barker v. Harvey* will be distinguished or, if necessary, reversed, and that the highest and most forceful considerations of ordinary justice and fair treatment require that a determined effort be made to this end.

A few of the reasons for this opinion follow:

(f) The grants discussed in *Barker v. Harvey* either did not contain the protective clauses already referred to, or where they did show anything of the sort the premises had admittedly been abandoned by the Indians. In the case at bar there has been no abandonment. The Indians have been driven from part of their territory against their will and by superior force under which circumstances as shown by other Supreme Court decisions their possessory title remains unaffected.

(g) Inasmuch as the foregoing principles, also supported by Supreme Court decisions, apply to the following principles, also supported by Supreme Court decisions, apply:



The purpose of the Act of 1851 was merely to obtain a decision on the validity of private land claims in order to enable the Government to distinguish the public domain from the land which had already been separated from the public domain by Mexico. Jurisdiction of the Board of Commissioners was limited to deciding on the validity of the claim prior to its location and survey by the United States Surveyor General.

(h) The United States patent given to a successful claimant before the Board of Commissioners is conclusive only between the United States and the claimant and does not affect third persons.

(i) The Indians, having a title prior in time and superior in both moral and legal right to that of Spain, Mexico or the United States, which yet amounts to a species of encroachment only, are third persons unaffected by proceedings before the Board.

(j) The Act of 1851 did not contemplate that helpless Indians, possessing the merest rudiments of civilization, unable to understand the English language and totally unaware of the existence of the Act, should be obliged to appear before the Board in order to set up and maintain their title of occupancy and possession. This is shown by the terms of the Act itself.

(k) If they had appeared the Board had no jurisdiction to pass on the title of occupancy and possession being of the nature above described. Its jurisdiction was to decide whether or not the land belonged to the claimant or the United States. It might belong to either and still be charged with the Indian title. The foregoing is noticed and approved in the opinion of the Board in this very case.

Little Rock, Ark.

(1) A decision of the Board in favor of the grant claimant was necessarily followed by the issuance of a United States patent to him, but no such patent has ever been or under the laws of the United States, then or now could be issued for a title of the nature of the Indian title.

(v) The words "public domain" used in the Act do not necessarily mean the same thing as "public lands".

(n) Land may be and often has been considered and treated as public land of the United States although admittedly subject to the Indian title of occupancy and possession.

(o) In view of the ignorant, dependent and helpless state of the Indians, statutes and treaties are invariably construed liberally in their favor. The only exception discovered to this rule is the case of *Barker v. Harvey*.

(p) The Indians are further protected in their possession by the California Act of 1850, later adopted by Congress in the Act of 1891 as a safeguard, which it was made the duty of the Attorney General to maintain.

The foregoing enumeration of principles and arguments is far from complete, but since authority for all of the above statements may be found in Supreme Court decisions, the conclusion must be that ample ground exists, both in law and justice, for carrying this case to the Supreme Court despite the existence of the *Barker v. Harvey* decision.

Emphasis is laid on the fact that the trial Court might feel itself bound by *Barker v. Harvey*, and that no adverse Atty Gen'l-B.

decision below should be accepted as ending this case. In event of defeat below the case unquestionably should be carried to the Court of last resort.

3. Future handling of the case:

Attorneys for defendants, O'Melveny, Milliken and Tuller, a leading firm in Los Angeles, filed a motion to dismiss in the nature of a demurrer based entirely on the Barker v. Harvey decision as shown by the memorandum of points and authorities which, under the local rule, they were obliged to file along with the motion.

It should not be overlooked that before the motion is argued the same rule requires plaintiff to file a memorandum of points and authorities.

The case is pending in the Northern Division of the Southern District of California and would normally be heard at Fresno, but arrangements can readily be made with the other side to have the motion argued at Los Angeles when mutually convenient.

While recently in California in connection with this and other cases, I had a number of interviews with Mr. Tuller, who is in personal charge for defendants. Recognizing that only the Supreme Court could satisfactorily determine the questions involved, he proposed that a merely formal defense against the motion to dismiss should be made by the Government, in which event the Court would probably follow the obvious lead of Barker v. Harvey and sustain the motion. In the resulting appeal, the questions of law alone would be presented to Att'y Gen'l-10.

the Supreme Court. This was mainly for the reason that a complete investigation of the facts and collection of evidence promised to be very lengthy and costly and might, it was thought, be avoided by both sides in case the Supreme Court determined the law adversely to the Government. It was thought that if the Government presented its case fully on the motion along the lines indicated above, including the distinguishing of Barker v. Harvey from the instant case, the trial Court might think that the questions were too complex to be decided on the pleadings alone and might better be deferred until the facts were fully developed in evidence. On March 23, 1931, I reported this proposition to you, asking for your instructions thereon. On April 20, 1931, after considering the proposition further and discussing it with Mr. Truesdell I wrote you again setting up the reasons for and against it, and recommending its acceptance.

Receiving no reply to either of these letters, on June 5, 1931, I wrote you a third letter asking to be instructed whether to accept or reject this proposal. This letter also has remained unanswered. I respectfully submit that a decision on this point should be made and the case, which has thus been delayed, should proceed immediately on whatever line is thought more advantageous.

There is still another feature to be mentioned. When Mr. Truesdell and I approached Mr. Chandler in an attempt to procure an amicable settlement, the latter, who seemed indifferent Att'y Gen'l-11.

to the situation of the Indians and who appeared to regard our application merely as an annoyance, asked us to defer suit until he should have the chance to use his personal influence at Washington in some unspecified way. We told him that fact and law had been considered, that the Interior Department had laid the matter before the Department of Justice stating that the condition of the Indians was unsatisfactory and asking that suit be brought if it were thought maintainable; that the latter Department, after careful consideration, had so decided, and that indeed it was not only the general but the specific duty of the attorney General under the Act of 1881 to protect these Indians.

The foregoing facts are mentioned lest new members of the Department, unfamiliar with the previous history of the case, should be misled by representations of any sort as to the situation which may be made by any of the defendants.

Finally, the case is in every way a meritorious one. The condition of these Indians is a reproach to our civilization. They are opposed to an aggregation of the wealthiest and most influential capitalists in Southern California and have no hope or recourse except through the intervention of the United States.

It may be noted that propositions have heretofore been made to solve the difficulty by removing them to some other place, but there are no suitable public lands available anywhere in the vicinity, and personal inspection of the Indian Reservation at San Carlos, Arizona, has shown that the same is not suitable for their residence.

River Reservation, to which it was once proposed to move them, shows that despite its large acreage, the arable land is hardly adequate to the needs of its present occupants. The tract which it is the purpose of the suit to secure for the band is in a remote corner of the Tejon Ranch where the presence of the Indians can in no way be an annoyance or detriment to their neighbors, and as above pointed out, is in every way suitable and desirable for their maintenance. It is earnestly hoped that this suit will be pushed to a conclusion along the lines carefully considered and above briefly indicated.

Respectfully,

*George A. H. Fraser,*  
Special Assistant to the  
Attorney General.

WAT/ALU

Atty Gen'l L.S

**FOIA5A**

**FOIA5B**

**FOIA5C**

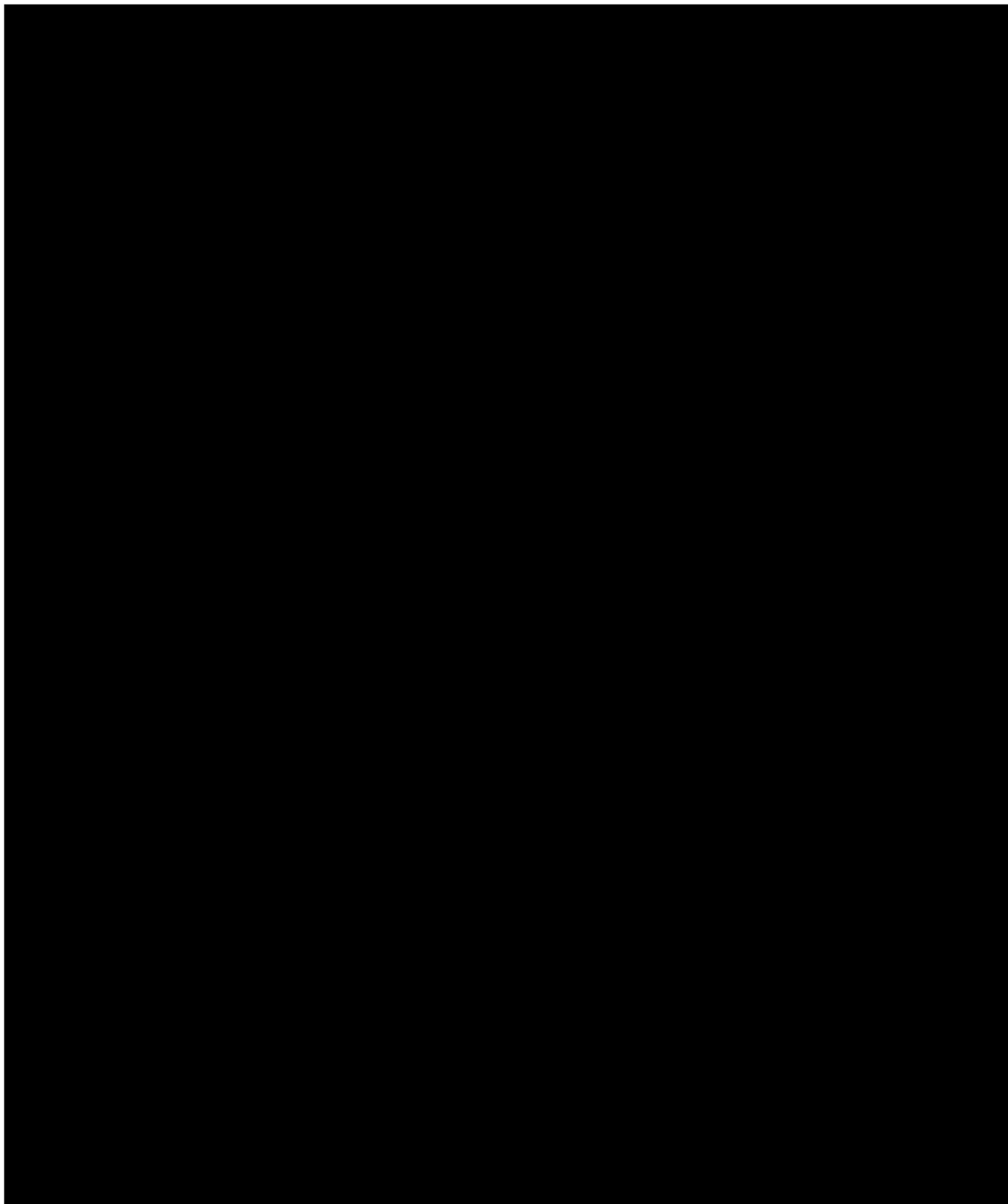


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*Draft 12.12.11*



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**Draft and Internal Document – Do Not Distribute – Attorney / Client Privileged**



*Draft 12.12.11*

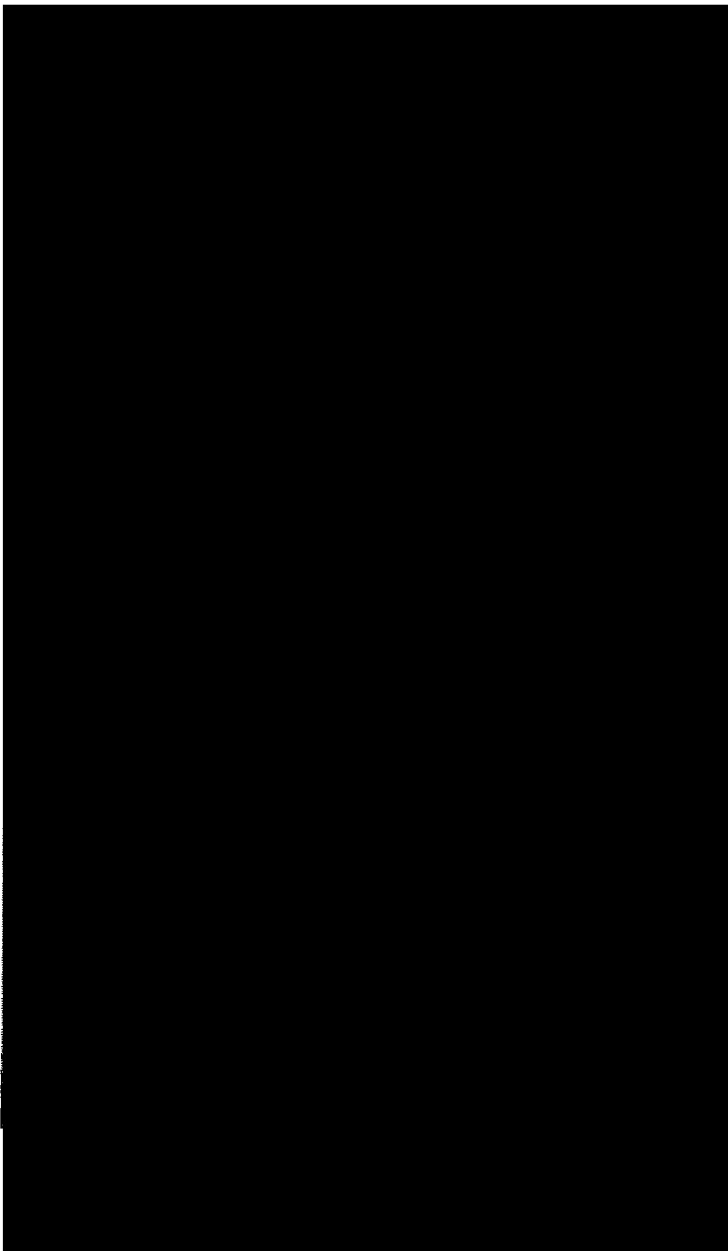
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# Genealogical Relationships within the Tejon Band in 1915

FOIA6



Prepared by  
John R. Johnson, Ph.D.  
Curator of Anthropology  
Santa Barbara Museum of Natural History

May 2006

## Key to Genealogical Diagrams, Figures 1 – 6



Married couple



Deceased Tejon man



Deceased Tejon woman



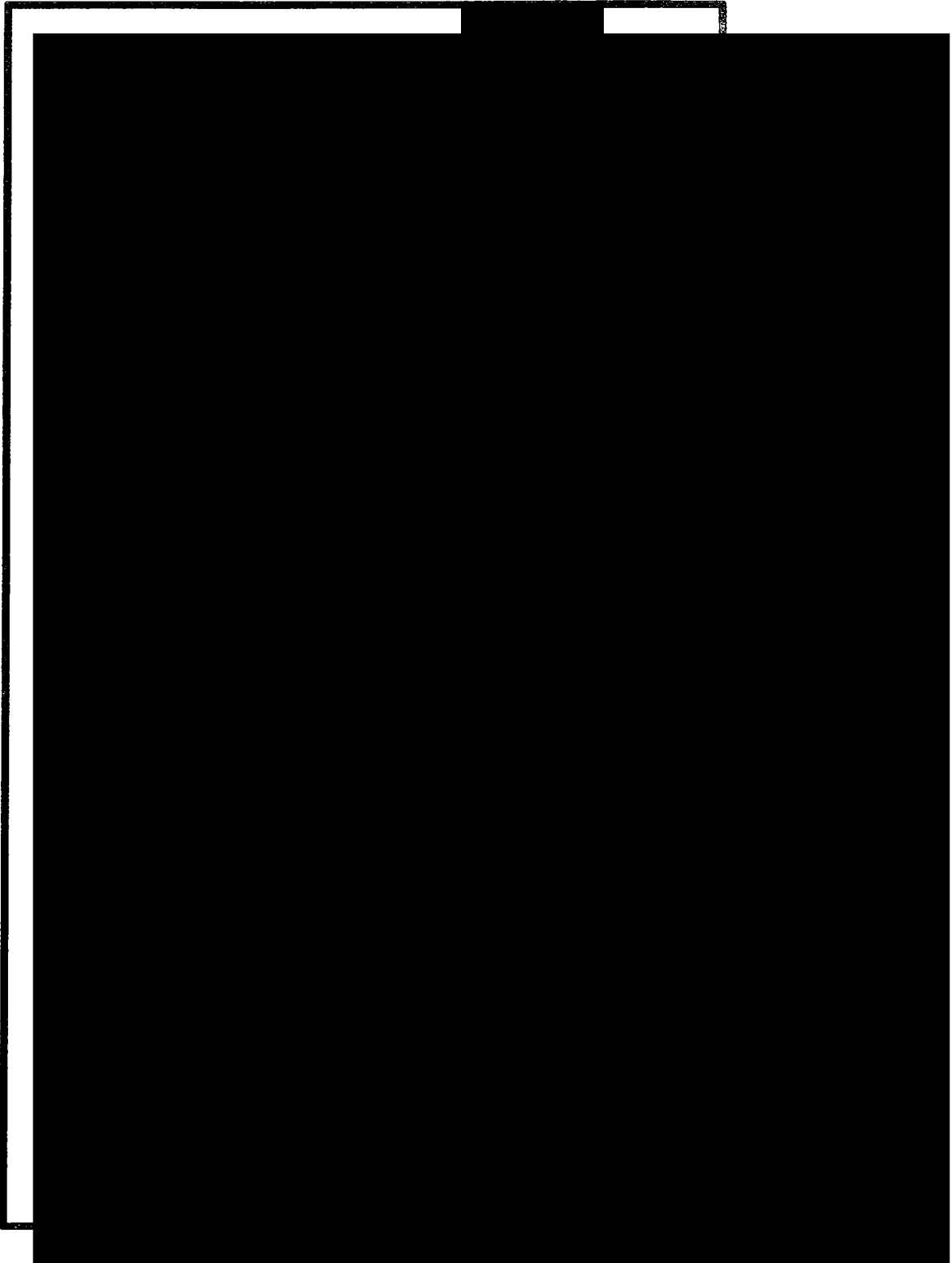
Non-Indian husband

### Notes:

The numbers given for each individual correspond to the order of listing in the 1915 census of the Tejon Band as reported by Special Agent John J. Terrell (see Table 1). Only the names of those people listed in the census appear in Figures 1 – 6. Those Tejon Indian forebears and previous spouses who had died prior to the 1915 census are not listed by name.

The dates of birth given in these genealogical diagrams sometimes differ from what would be expected from the estimated ages in Terrell's 1915 census. The dates provided in Figures 1 – 6 were largely based upon more accurate information contained in baptismal records and the 1933 roll compiled under the 1928 California Indian Jurisdictional Act. Information regarding dates of death and place of burial were mostly obtained from Kern County death records.

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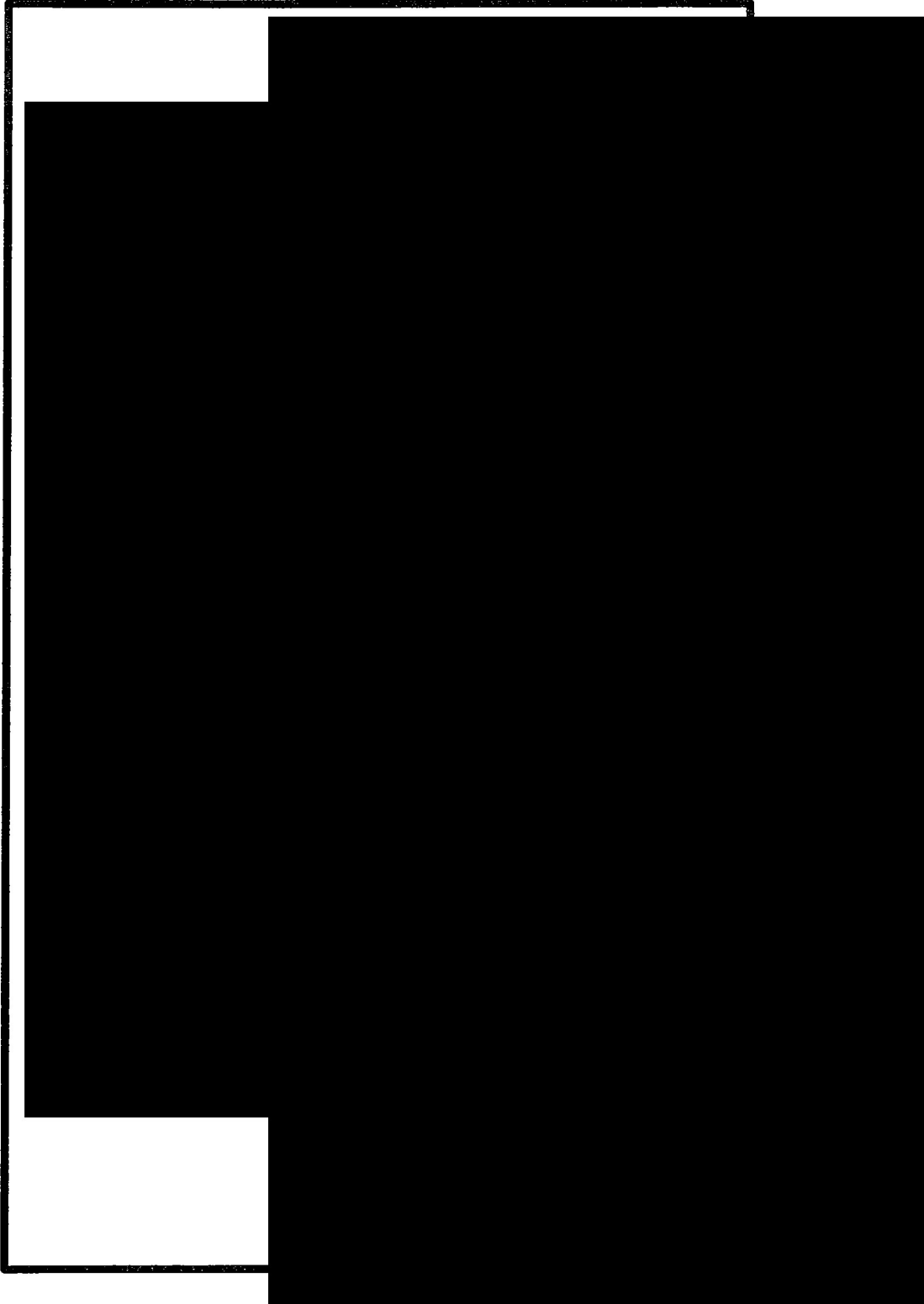
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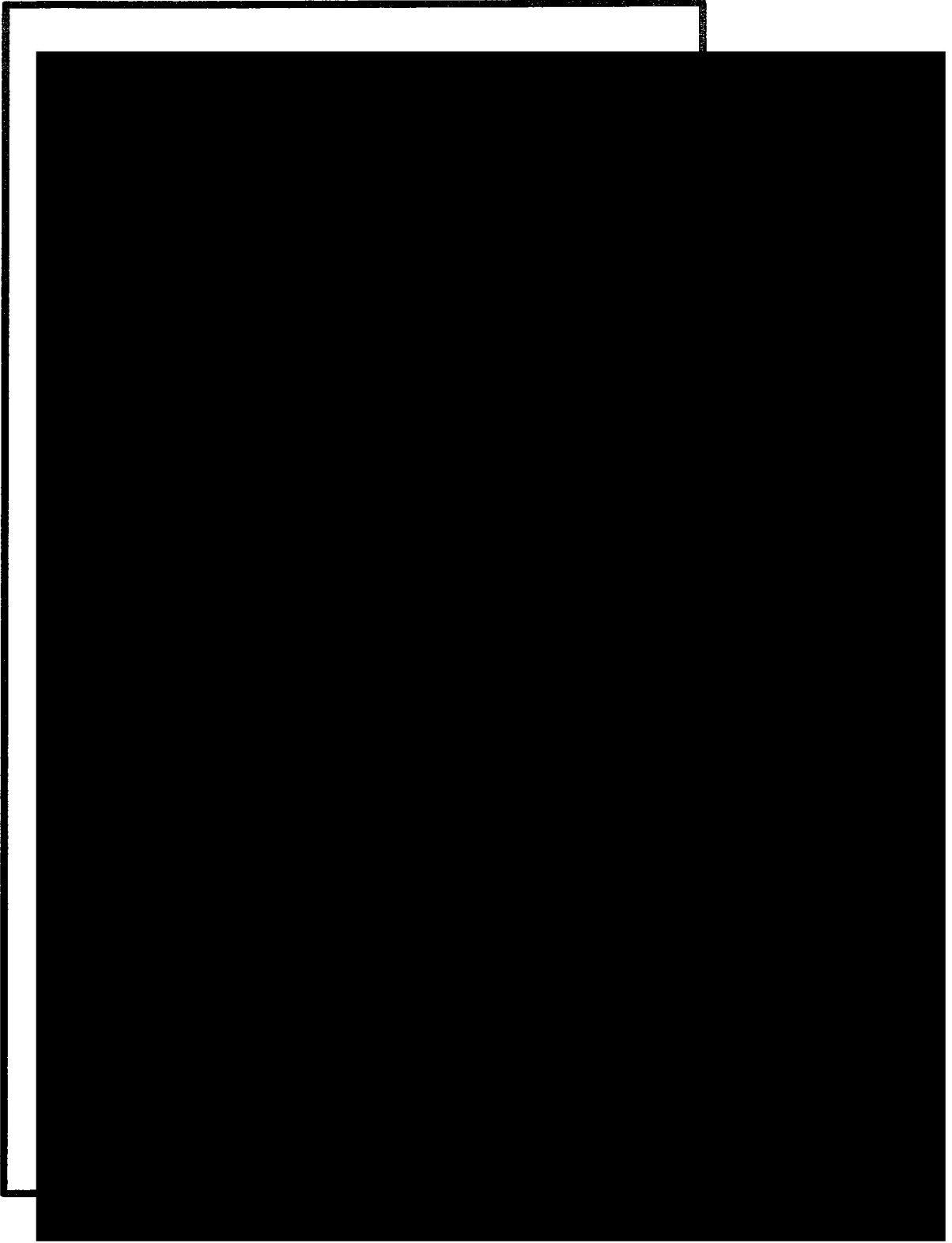


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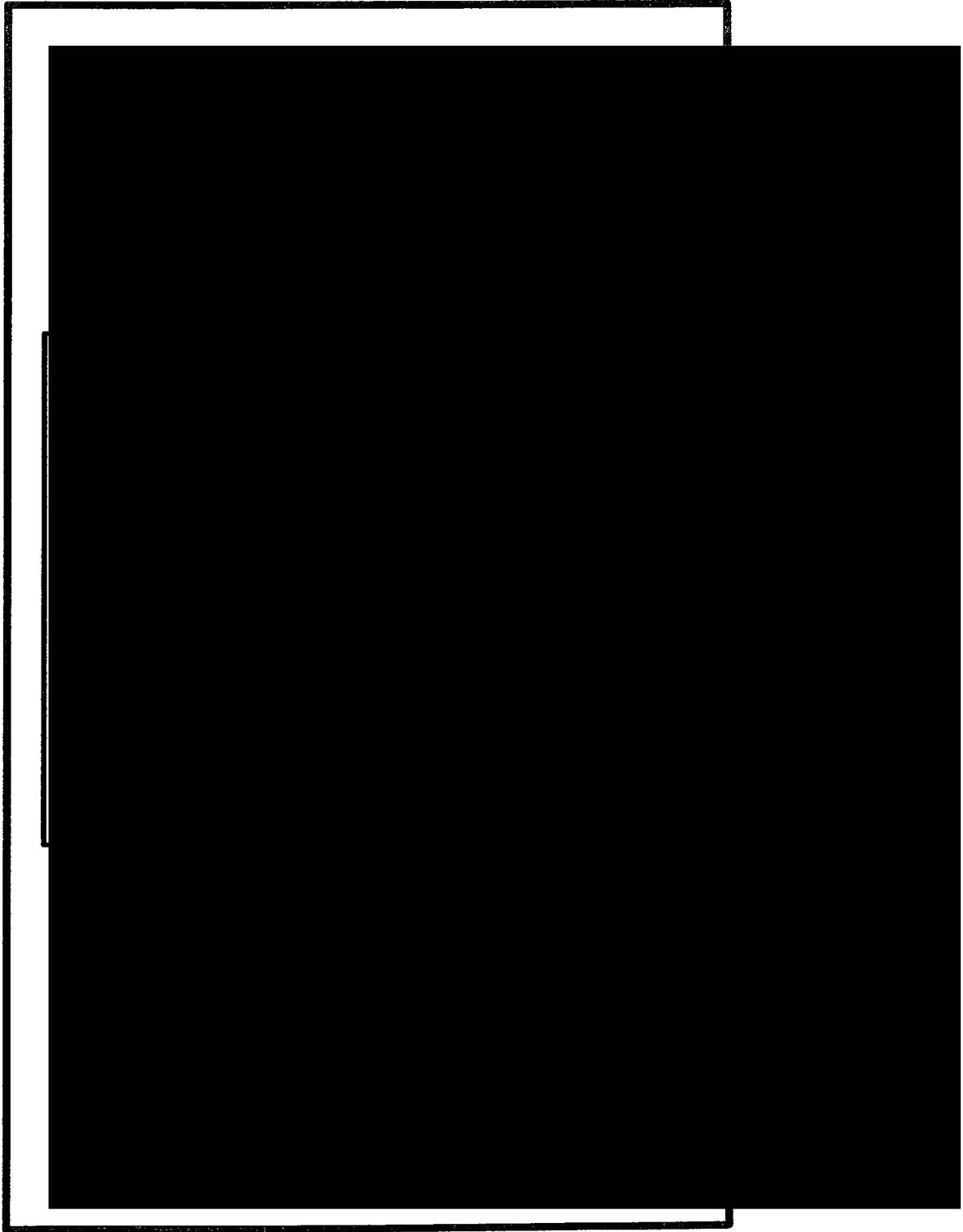




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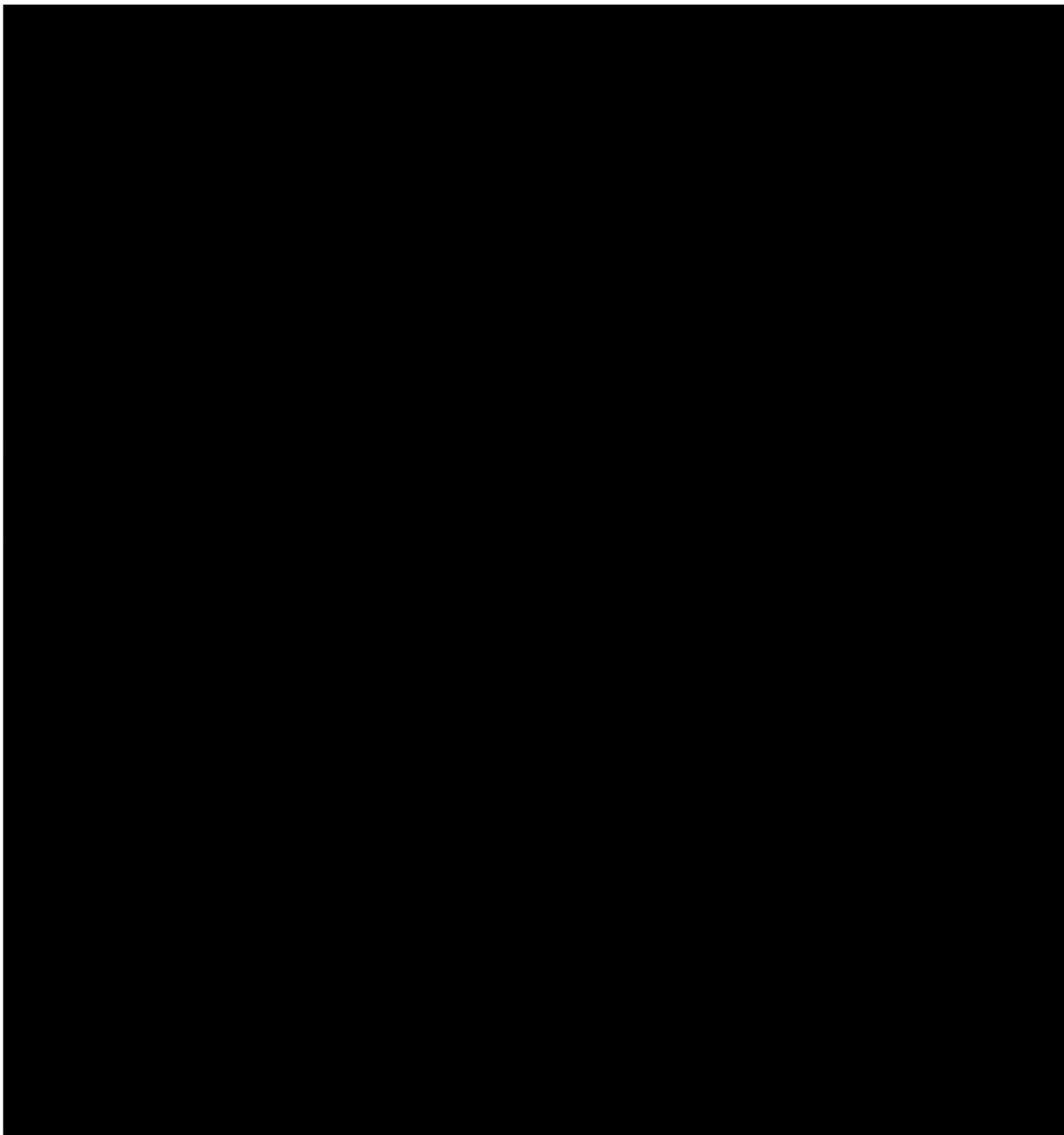
Photographs of Indian Homes at Tejon Rancheria, 1917,  
mostly taken by John P. Harrington

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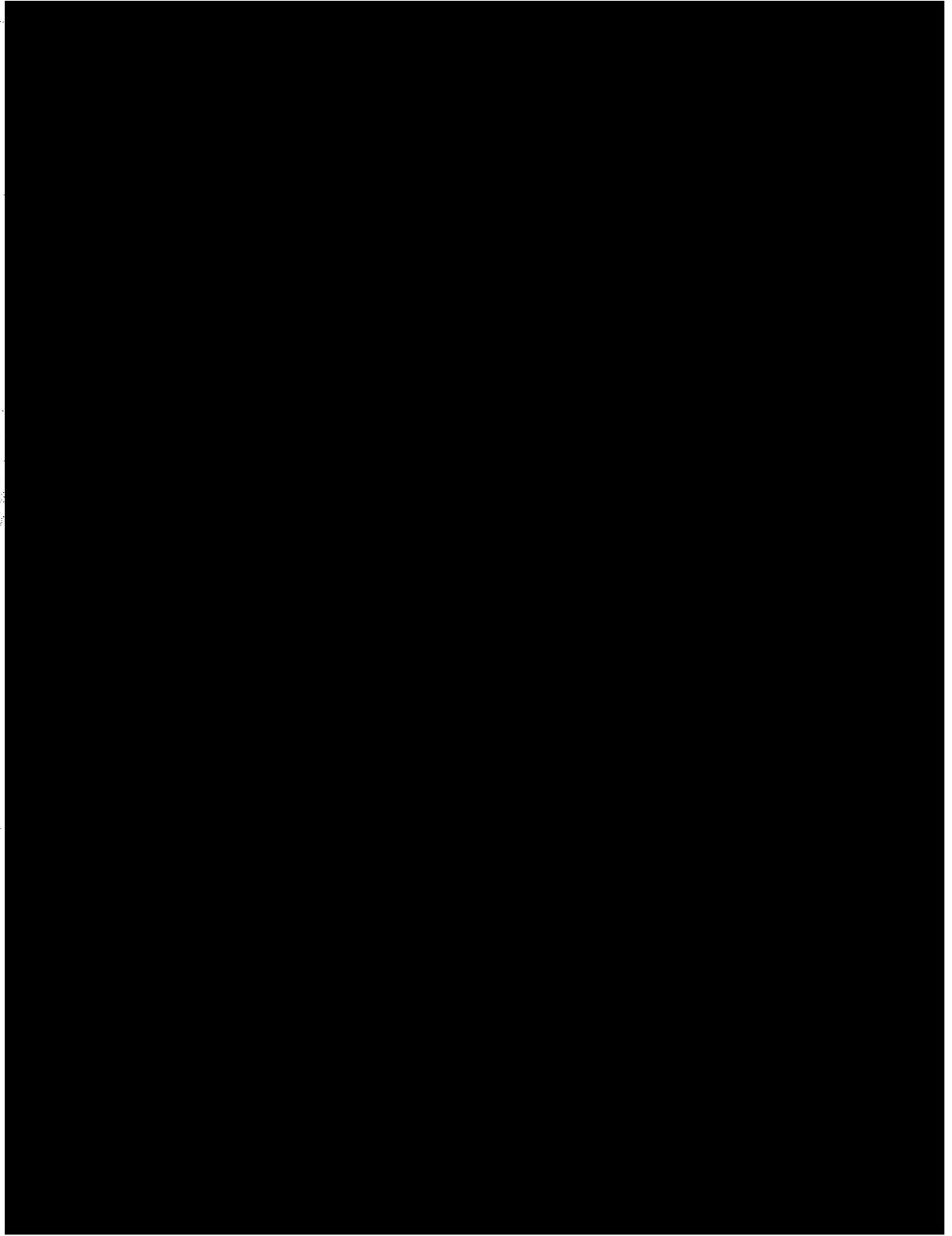
Tejon Indian Photographs from the J. P. Harrington Papers  
at the National Anthropological Archives

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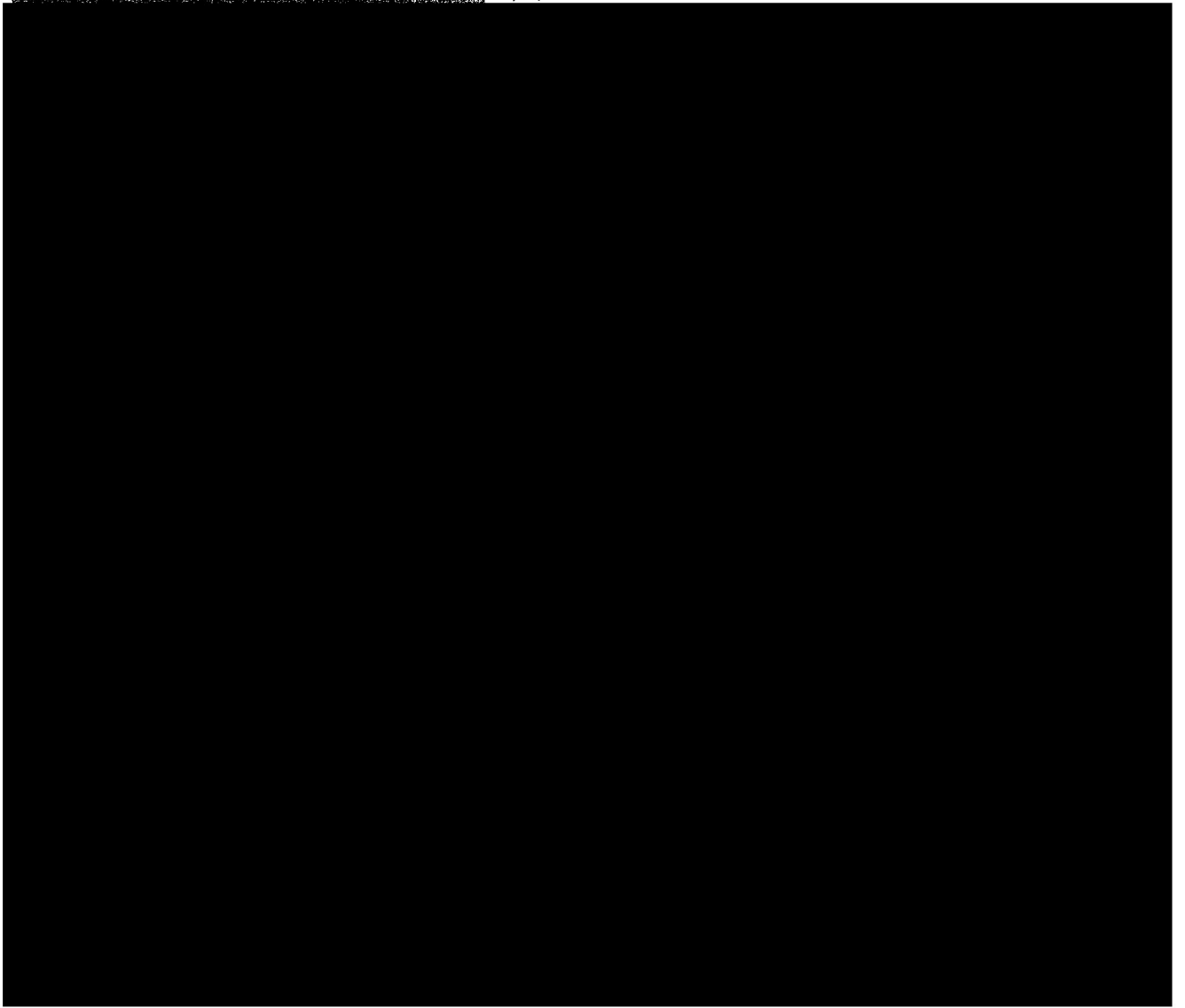
Tejon Indian Photographs  
taken by John P. Harrington in 1917

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Tejon Indian Photographs taken by Edward S. Curtis, about 1916

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**DO NOT RELEASE**

**PROHIBITED FROM  
DISCLOSURE PURSUANT  
TO  
THE FREEDOM OF  
INFORMATION ACT,  
EXEMPTION 6  
(5 U.S.C. § 552(b)(6) (2000))  
AND  
THE PRIVACY ACT  
5 U.S.C. § 552a(b)**

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1	Table 1: Genealogical and Life History Data for Tejon Tribe Members Listed on the 1915 Census Reported by Special Agent John J. Terrell								
2	Prepared by John R. Johnson, Ph.D., Santa Barbara Museum of Natural History, May 2006								
3									
4	Number		Age Reported in Census	Status of Descendants	Relationships to Other Tejon Indians Who Were Listed on the Census	Attended Sherman Institute?	Date of Death	Place of Death	Burial
5	1	Juan Lozada	56	None	Father of no. 3		9 Feb 1911	Kern General Hospital	Tejon Indian Cemetery
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1	Table 2: Tejon Tribe Members Listed on the 1933 California Indian Roll with Information about their Marriages, Descendants, and Attendance at Sherman Indian School													
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1	Table 3: Genealogical and Life History Information Regarding Current Members of the Tejon Tribe													
2	Prepared by John R. Johnson, Ph.D., May 2008													
3														
4	Surname	First Name	Middle Name	Married or Other Name	Blood Degree	Degree of Kinship to Current Chairperson	Tejon Parent(s)	Ancestors Listed in 1915 Terrell Census	Tejon Indian Grandfather 1	Tejon Indian Grandmother 1	Tejon Indian Grandfather 2	Tejon Indian Grandmother 2	Born at Tejon Ranch and/or Resided There	Born Prior to 1983
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**John R. Johnson, Ph.D.**  
**Brief Biography Pertaining to Tejon Ethnohistory**

John R. Johnson has served as curator of anthropology at the Santa Barbara Museum of Natural History since 1986. He undertook graduate studies in anthropology at the University of California, Santa Barbara beginning in 1978 and completed his Ph.D. in 1988. Dr. Johnson has contributed to many aspects of California Indian studies during the course of his career, and in particular has specialized in the ethnohistory of Native Americans in central and southern California. He has authored or co-authored more than 60 published articles in peer-reviewed journals and edited volumes. In addition to his museum responsibilities, Dr. Johnson teaches an anthropology course on California Indians at the University of California, Santa Barbara.

Since 1977, while working in the cultural resources program for Los Padres National Forest, Dr. Johnson began studying the ethnohistory of the Tejon region of the southern San Joaquin Valley. His initial interviews with Tejon Indians commenced in 1984, and he has worked steadily since that time compiling an extensive amount of biographical and genealogical information pertaining to Tejon families. He has conducted about 35 interviews with members of the Tejon tribe, especially emphasizing the eldest generation that was brought up in the Tejon rancheria. Four tape-recorded oral history interviews were with elders now no longer living.

Dr. Johnson has traced the family lineages of current tribal members from their forebears as far back as eight or nine generations using California mission registers, the records of the mid-nineteenth century Tejon reservation, census records, ethnographic papers, and BIA documents. He has gathered an extensive collection of historical photographic images from various archives and family albums and identified the people and places through information provided by tribal elders and research in primary sources. Six of Dr. Johnson's published works pertain as a whole or in part to Tejon ethnohistory, and he was consulted by Dr. George Phillips for the latter's recent book, *"Bringing Them under Subjection: " California's Tejón Indian Reservation and Beyond, 1852-1864.*